UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 22-10964-mg

- x

In the Matter of:

CELSIUS NETWORK LLC,

Debtor.

- x

United States Bankruptcy Court

One Bowling Green

New York, NY 10004

January 11, 2024

10:04 AM

B E F O R E :

HON MARTIN GLENN

U.S. BANKRUPTCY JUDGE

ECRO: JONATHAN & FRANCES

HEARING re Debtor's Motion for Entry of an Order Authorizing the Debtors to Redact and File Under Seal Certain Confidential Information in the BRIC Agreement (related document(s) 41 15, 41 16, 4135, 4151, 4050)

HEARING re Debtors Motion for Entry of an Order (I) Authorizing and Approving Certain Fees and Expenses for the BRIC in Connection with the Implementation of the MiningCo Transaction, and (II) Granting Related Relief. (Doc# 4151, 4050, 4115, 4116)

HEARING re Application of the Custody Ad Hoc Group, Pursuant to Sections 503(b)(3)(D) and 503(b)(4) of the Bankruptcy Code, for Allowance and Payment of Professional Fees and Expenses. (Doc## 3660, 3719, 3836, 4016, 4018, 4025, 4027, 4035, 4093, 4188, 4193, 4194, 4205, 3467, 3356, 3498)

HEARING re Application of The Ad Hoc Group of Withhold Account Holders for Allowance and Payment of Fees Under Bankruptcy Code Sections 503(b)(3)(D) and 503(b)(4). (Doc# 3663, 3836, 4016, 4018, 4025, 4035, 4093, 4186, 4188, 4193, 4194, 4205, 3467, 4205, 3467, 3498)

HEARING re Application of Ad Hoc Group of Earn Account Holders for Allowance and Payment of Professional Fees and Expenses Incurred in Making a Substantial Contribution (Doc no. 3654, 3708, 4185, 4187, 4016, 4018, 4025, 4027, 4205, 3467, 3498)

HEARING re Motion to Allow Payment of Expenses incurred Pursuant to 11 U.S.C. §§ 503 in making a substantial contribution filed by Immanuel Herrmann. (Doc# 3674, 3836, 4015, 4018, 4035, 4093, 4188, 4193, 4194, 4205)

HEARING re Substantial Contribution Motion of Daniel Frishberg. (Doc# 3675, 3836, 4016, 4018, 4035, 4093,4188,4193,4194,4205)

HEARING re Application of Ignat Tuganov for Entry of an Order, Pursuant to 11 U.S.C. 503(b)(3)(D) AND 503(b)(4), for Allowance and Reimbursement of Reasonable Professional Fees and Actual, Necessary in Making a Substantial Contribution to these Cases. (Doc# 3665, 3666, 3686, 3836, 3718, 3836, 4010, 4016, 4018, 4027, 4035, 4093, 4158, 4184, 4188, 4193, 4194, 4205, 4211, 4214, 4216)

HEARING re Amended Notice and Amended Application of Bnk to the Future (BF) Pursuant to 11 U.S.C. §§ 503(b)(3)(D) and 503(b)(4) for Allowance and Payment of Professional Fees and Expenses Incurred in Making a Substantial Contribution. (Doc# 3672, 3787, 3836, 3670, 3712, 3799, 4015, 4016, 4018, 4025, 4027, 4034, 4035, 4093, 4106, 4188, 4189, 4193, 4194, 4205)

HEARING re Substantial Contribution application for Zachary Wildes. (Doc# 3615, 3762, 3486, 4025, 4035, 4093, 4205)

HEARING re Motion to Allow Additional Recovery of Liquid Crypto in the form of 20 ETH filed by Rebecca Gallagher. (Doc## 3662, 3836, 4016, 4018, 4025, 4027, 4035, 4093, 4185, 4187, 4191, 4193, 4194, 4205, 3654)

HEARING re Motion for Payment of Administrative Expenses for Substantial Contribution by Pending Withdrawal Ad Hoc Group for Adrienne Woods, Creditor's Attorney, period: 2/8/2023 to 9/28/2023, fee:$28927.50, expenses: $350. (Doc# 3673, 3705, 3734, 3836, 4016, 4018, 4025, 4035, 4093, 4188, 4193, 4194)

HEARING re Debtor's Motion Seeking Entry of an Order (I) Designating Additional Items to be Included in Appellants Designation of Record on Appeal; (II) Striking Certain Items from Appellants Designation of Record on Appeal; and (III) Granting Related Relief. (Doc# 4126, 4163, 4174, 4032, 4180)

HEARING re Debtor's and the Official Committee of Unsecured Creditor's Joint Motion Seeking Entry of an Order (I) Designating Additional Items to be Included in Appellants Designation of Record on Appeal; (II) Striking Certain Items from Appellants Designation of Record on Appeal; and (ill) Granting Related Relief. (Doc# 4166)

HEARING re Debtor's and the Official Committee of Unsecured Creditors Joint Supplemental Motion Seeking Entry of an Order (I) Designating Additional Items to be Included in Appellants Designation of Record on Appeal; (II) Striking Certain Items from Appellants Designation of Record on Appeal; and (III) Granting Related Relief. (Doc# 4180, 3972, 4032, 4126)

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ALSO PRESENT:
Jason Amerson - Pro se creditor
Rebecca Gallagher - Pro se creditor
Johan Bronge - Pro se creditor
Immanuel Herrmann - Pro se creditor
Daniel Frishberg - Pro se creditor
Simon Dixon - Pro se creditor
Cathy Lau - Pro se creditor

P R O C E E D I N G S

CLERK: All rise.

THE COURT: Please be seated. Good morning.

MR. KOENIG: Good morning, Your Honor. This is probably the last time I'll say it, but happy near year.

For the record, Chris Koenig, Kirkland & Ellis, on behalf of the Debtors.

Your Honor, before jumping into our agenda today, I just wanted to provide Your Honor and the other parties a quick update on the projected effective date of the plan and the commencement of distributions.

We are still working towards an effective date at the end of January, the end of this month. There is still much work to do, but we are cautiously optimistic that we can get everything done so that the company can emerge from bankruptcy at the end of the month and start distributions.

On distribution, we have been working to present communications to accountholders on what they should expect when distributions commence and what they need to do to receive distribution. Of course in order to receive distributions, they will need to go through a KYC process with the applicable distribution agent so that the distribution agent is authorized and allowed under applicable law and regulations to make distributions.

So about two weeks ago we sent an initial email to

all accountholders that are entitled to receive distributions under the plan informing them of their distribution agent for cryptocurrency -- that's Coinbase or PayPal -- and directing them with how to KYC with that distribution agent so they can get ahead of the game, go through the registration process, and be ready to go to receive their distribution promptly.

As you might expect, that communication caused a flood of questions and support tickets back. We received over 25,000 support tickets in the last two weeks.

THE COURT: I think there were several communications that the Corut received, and in each instance we made sure that copies were sent to the Committee and the Debtor, counsel for the Committee and the Debtor.

MR. KOENIG: Yes. And thank you, Your Honor. We have added those to the queue and they've been responded to.

Of course distributions in this case, it's a herculean task. We had 25,000 support tickets. Hundreds of thousands of creditors are entitle to receive cryptocurrency and almost 100,000 creditors will be entitled to receive the mining newco equity.

So what we've decided to do to streamline the process is to publish a document that walks through frequently asked questions about distributions. Almost all the questions we're getting are very common and are the same

10, 20, 30 questions. So we've been collecting all the questions we've received both from the main ticketing and email system and also from key constituents in the case. The Committee, the Ad Hoc Groups, and others. And we have an FAQ that has been posted to a blog that Celsius runs on Medium with key questions and answers. And just before you took the bench, we filed just a quick notice on the docket directing all parties to that FAQ so that people can go and look at it. And hopefully that streamlines the process.

We of course have a system in place to respond to tickets. But given the volume and the reduced workforce that the company has, we thought that this was the best way to get quick answers out to people who have common questions.

We expect to continue to update that FAQ probably once a week or so through emergence. And of course we will continue to update post-emergence as well. So we encourage everybody to take a look at the notice on the docket, take a look at the FAQ. It will be the most up-to-date source of answers, the best way to get quick answers to common questions, and much faster than opening a ticket. It includes answers to common questions such as what do I do if I'm supposed to receive a distribution from PayPal but I'm banned from PayPal, can I change my distribution agent, what if I'm in a country that doesn't have an authorized

cryptocurrency distribution agent? So all of those common questions are there. And of course if you still have a question, feel free to reach out. All of the support emails and ticket systems are on that FAQ to make it easy for you to submit a question.

Also in advance of the effective date, we have been working through all the data that's necessary for these distributions. As Your Honor may recall, the plan included a convenience class for those under $5,000 of claims. And anybody above $5,000 could affirmatively elect to reduce their claim to $5,000 and receive the convenience class treatment.

When we looked at the data, we noticed that there were quite a bit of people that made an election that in our view may have been uneconomic. There were seven individuals who had a claim of over $1 million who nonetheless checked the box. We thought that that was probably a mistake. So we reached out to the creditors that had high claims but nonetheless checked the box and said did you mean to do this, would you like to rescind your election and go back to the claim you had before. We still have a little bit of time before those recissions, rescissions -- not sure what the word is -- are due, but over half of the people that we emailed have realized that it was probably their mistake and rescinded their election.

That's all that I have on distributions, Your Honor. We will continue to post updates to the docket and to the FAQ and of course address questions that creditors have. So unless you have initial comments for me, I will turn it over to Mr. Latona and we'll get through the agenda.

THE COURT: Let me ask. So I issued an opinion and an order was entered on December 27th granting the Debtor and Committee's motion with respect to the changes that were made in (indiscernible). Am I correct that no appeals were filed from --

MR. KOENIG: That's correct, Your Honor. I believe that the 14-day --

THE COURT: The 14 days has run.

MR. KOENIG: Ran yesterday.

THE COURT: Yes. Okay. I just wanted to confirm that -- I did check the docket and it appeared to me that...

MR. KOENIG: Right. We had it circled on our calendar, Your Honor.

THE COURT: Okay. So I also saw two reports within the last week that Celsius had unstaked a substantial quantity of ETH. And was that something that was planned, or was that -- because the reports I read, it freed up a considerable amount of crypto for potential distribution.

ERIC ROBERTS: Yes. That's exactly why we did it, Your Honor. So the ETH that's staked, when we unstake it,

there is a queue to unstake. And so we don't want to get to the end of the month, great news, we have the effective date, and the queue for ETH unstaking is several weeks or a month or whatever. So we went through the process of beginning to unstake our ETH so that we didn't get caught ready to go effective without distributions to give out to creditors. So it was very much planned, very much intentional. And the queue was a little bit shorter than we expected, but it's impossible to know until you jump in that queue.

THE COURT: Approximately how much of crypto was freed up by doing that?

MR. KOENIG: Several hundred million dollars. I don't have the number offhand. But substantially all of our ETH was staked in order to earn a return during these cases. But now that we are ready to give it out, we wanted to unstake it so that we could promptly make distributions once we're able.

THE COURT: Okay. I don't have any more questions.

MR. KOENIG: Wonderful. I will cede the lectern to my partner.

THE COURT: Thank you very much.

MR. KOENIG: Thank you.

MR. LATONA: Good morning, Your Honor. For the

record, Dan Latona of Kirkland & Ellis on behalf of the Debtors. The first item on the agenda today is the Debtor's motion to approve paying the expense reimbursement and fees to the Brick and the related sealing motion. The sealing motion was filed at Docket 4116. The motion itself was filed at Docket 4189.

And, Your Honor, as outlined at the hearing on December 21st, when we received news that the SEC was not going to give us pre-clearance on filing the NewCo transaction, the Debtors realized that pivoting to the mining co transaction and otherwise monetizing those illiquid assets became a very pressing concern. But also as we have stated throughout the cases at this time, since selecting the Brick as the initial plan sponsor, the Debtors and the Committee have made substantial progress on a number of the services that were originally included in the scope that the Brick was meant to serve, such as hiring distribution agents to distribute liquid crypto, monetizing certain illiquid assets through various stages of litigation, and converting all coins into bitcoin and Ethereum for distribution. So as a result of that, the scope of services needed from the Brick was substantially reduced and that required a renegotiation.

And so over the course of the first few weeks in December, the Debtors, the Committee, and the brick

professionals negotiated a very hard-fought and arms length negotiations the terms that are attached to the motion as Exhibit A I believe.

And so the Brick will serve as complex asset recovery manager to monetize certain of the Debtor's illiquid assets and pursue certain causes of action against certain of the Debtor's professionals.

And, Your Honor, what's notable is that the fees that are going to be paid to the Brick, which are $5 million over the next three years exclusive of inventive fees, are not incremental to the estate. Those are being funded by reductions in both the litigation administrator and the plan administration budget. So those fees are not incremental to the estate.

Furthermore, to the extent that Debtors were to select the Brick and the scope of services as contemplated in the original orderly winddown, those fees would have been $46 million exclusive of incentive fees. So this term sheet and the fees negotiated represents a significant reduction.

The incentive fees payable to the Brick on monetizing the illiquid assets and pursuing certain causes of action are only payable to the extent the Brick achieves a resolution event as defined in the term sheet. And that means bringing those causes of action or monetizing those liquid or illiquid assets to a substantial conclusion or at

least reducing it to a final judgment. So those are only payable to the extent the Brick achieves a resolution event.

Notably, Your Honor, no party objected to the Debtor's motion. And for the exact reason that the Debtors and the Committee selected the Brick as the original backup plan sponsor, the Debtors and the Committee selected Brick to monetize certain illiquid assets and pursue certain causes of action for their experience in this field, monetizing illiquid assets in the distressed field.

Your Honor, the sealing motion itself seeks to seal certain of the Debtor's projected recoveries on certain causes of action. We've done this before in this case, but for the reasons set forth in the sealing motion because revealing those to the Debtor's counterparties would give them an idea of what they value --

THE COURT: It's consistent with orders I've entered in other cases in similar circumstances.

MR. LATONA: Right. So, Your Honor, unless you have any further questions for me, we would request entry of the order filed at Docket 4189.

THE COURT: Does anybody else wish to be heard? Mr. Colodny, do you want to be heard on this?

MR. COLODNY: Your Honor, I believe I mentioned this at the Mining Co hearing. But the Brick settlement was a part of a global resolution of all disputes. The fees are

part and parcel to that. The Brick is a specialist in recovering these complex assets. We believe we have reached a structure which is net neutral to the estate, incentivizes the Brick to bring back more money for creditors, and that they are poised and ready to do that upon the effective date. We hope that they monetize these things quickly so that money can get back to creditors and we can wrap this up.

THE COURT: Thank you. Anybody else wish to be heard? All right.

So first the sealing motion is granted. It's consistent with what I've done in other cases over the years. And with respect to the approval fees, it's granted as well.

MR. LATONA: Thank you, Your Honor. We will make sure to send a Word version of that to chambers as soon as possible.

THE COURT: Thank you very much.

MR. LATONA: Your Honor, the next items on the agenda relate to various substantial contribution applications filed by various ad hoc groups and pro se parties. At this point I will turn the lectern over to my partner, Mr. Koenig, to give some initial comments and then we'll proceed on the agenda.

THE COURT: Thank you very much.

MR. KOENIG: Hello again, Your Honor. Chris Koenig for the record.

So we have a bunch of substantial contribution applications. We are of course happy to take them in whatever turn Your Honor would prefer. The way that we structured them on the agenda was there are a number of applications that are supported by the Debtors and the Committee and then there are some that are not. So what we did is items through I believe it's eight are supported by the Debtors and the remainder are not. So perhaps what makes the most sense is to go through three through eight, let the movants present. Mr. Colodny and I can speak generally as to the ones that we support. And then I know Ms. Cornell objected to all of the applications. I don't know whether you want her to object once or twice. But maybe we group them in that way to try to streamline the hearing this morning.

THE COURT: First let me ask Ms. Cornell. I don't know whether Ms. Cornell or Mr. Bruh -- I don't see Ms. Cornell in the courtroom, but she may be on Zoom. I don't know. Mr. Bruh?

MR. BRUH: Thank you, Your Honor. Mark Bruh for the United States Trustee. Ms. Cornell could not be here. I will be arguing on behalf of the United States Trustee.

THE COURT: Do you have a preference as to --

MR. BRUH: I guess when I present my objection, I put it down as three groups because we objected to all of them as the attorneys who are representing ad hocs, as attorneys representing individuals, and then individuals. So that's how we'll present our objection to Your Honor. As they present theirs, I guess I'll go last so that I can present it this way.

THE COURT: That's fine. We'll proceed in that fashion.

MR. BRUH: Thank you.

MR. KOENIG: Wonderful. So I think the Custody Ad Hoc Group is up first on our agenda. We'll just go through the agenda.

MR. KOTLIAR: Good morning, Your Honor. Bryan Kotliar of Togut Segal & Segal on behalf of the Custody Ad Hoc Group. I had a joke about saying happy new year, but Mr. Koenig stole my thunder. So I'll just say happy new year.

We are here today, as some others, on our substantial contribution application. I have the benefit and the burden of going first.

Our application was filed on October 2nd at Docket 3660. The Debtors and the Creditors' Committee, as Mr. Koenig said, had filed a number of pleadings in support of our application. Those are at Docket Numbers 4025, 4027,

and 4179. We did get one objection from the U.S. Trustee's Office. That's at Docket Number 4018, and we filed a reply last week. That's at Docket Number 4188.

As we say in that reply and in our application, we have decreased our requested fees by $48,505.50, expenses by $7,696.66. In total, our total request is for $740,447 --

THE COURT: $740,447.50.

MR. KOTLIAR: Fifty cents in fees. And we are not asking for reimbursement of any expenses.

THE COURT: So let me just -- this is going to go throughout. I don't anticipate ruling from the bench with respect to any of these applications. I have spent a lot of time reviewing them. Also reviewing the law in this circuit and elsewhere, other decisions regarding substantial contribution applications.

So what I am likely to do is probably enter a single order that addresses some explanation of the law that I'm applying and then considers each of those applications that are before me today. I guess one has been adjourned. So you can go ahead and make whatever argument you want to do. And I think it would be best and I would like to follow Mr. Koenig's suggestions in dealing with sort of the groups of applications together and then give the U.S. Trustee a chance to argue its objections. And there were also other objections, I guess people -- I don't know whether they may

be in the courtroom or on Zoom. I'm certainly willing to listen to anyone. I'm hoping we won't have to have duplicative arguments. But go ahead with your argument, okay? I just wanted to lay the groundwork for what -- so don't expect to walk out with a ruling.

MR. KOTLIAR: Understood, Your Honor. And thank you for that color. Based on our experience and knowing how closely that you review fee applications, we expect that Your Honor would probably spend a lot of time with these applications.

So I don't have anything to add other than what's in our application and reply. I'm happy to answer any questions that the Court has about our application here or response to the objections.

THE COURT: Focus if you would and tell me what is it that you think you on behalf of your clients or your colleagues on behalf of your clients delivered to this case that resulted in a benefit to the estate as a whole. One of the things -- I mean, I read the law in this circuit -- and maybe there are some differences elsewhere. But I read the circuit law is that in order to be approved, a substantial contribution application really needs to show a benefit to the estate and not simply the interest of the particular party that's represented.

MR. KOTLIAR: Sure, Your Honor. So I think

there's four important things that our group did that was a substantial contribution to this estate that was outside of the interest of the members just of our group. Those four things are we brought procedural and process efficiency to the case by raising important questions that weren't necessarily before the Court.

For example, on the property of the estate question that affected custody assets from the beginning of the case, the Debtors did file a motion to address some custody assets, but the Debtors didn't address the question of title of ownership in that motion.

The Court may recall in the Earn litigation there was a motion filed. It didn't address the title question. There were dozens of objections and a different procedural posture took months to sort out. We sort of streamlined that negotiation and put the issue front and center.

THE COURT: Well, when you say it took months to sort out, once the issues were defined, we went ahead and I wrote the decision in -- I guess it was January of last year addressing the issue. It was sort of viewed as a gating issue throughout. But go ahead. And so the issue was framed, but I'm not sure that I see how any of the ad hoc groups or any of the other applicants added value to it. It was pretty clear to the Court from the start that the Court had to decide the important gating issue. Obviously as to

custody accounts, the legal issues were different. We never -- that issue essentially was resolved. The Debtor ultimately did not disagree with respect to the ownership of pure custody, for example.

MR. KOTLIAR: Yes. So I think raising the question is one thing, but how the question and how much it cost that question to get resolved are two different things. And so by having a single sort of representative for custody holders on the other side of that issue and being involved in the case, there was far less objections, far less people to respond to, far less inquiries, and it streamlined the litigation.

We were also the counterparty to negotiate the custody settlement, which was a key aspect of the plan. Our group negotiated on behalf of all custody holders. The ultimate settlement that was obtained was not an offer that was made exclusively to the members of our group, it was an offer that was made to all custody holders.

The actions of the custody group through that settlement and through the plan resolved tens of thousands -- sorry, thousands if not tens of thousands of potential preference lawsuits. And I think the most important thing is the leave-behind of 27.5 percent of custody accounts. By the custody settlement and under the plan, custody holders that elected to participate, which was a large number, left

behind 27.5 percent of their custody accounts in kind for the debtor's estates and for the benefit of other creditors. Base on the Debtor's voting declaration and some rough math based on petition date values, as we say in our application, we think that was more than -- tens of millions of dollars. We think it was more than thirty or $40 million.

THE COURT: Okay. Anything else that you want to point to where you think you delivered value to the estate as a whole?

MR. KOTLIAR: I would just add that we supplemented the role that the Debtors and the Creditors' Committee had in communicating with customers and answering questions from the crypto community. Because as Your Honor saw, this was a heavily-involved community in this case, and they have a lot of questions. And they got answers from the Debtors, they got answers from the Creditors' Committee. But they also got answers from the Custody Ad Hoc Group when it came to custody issues. And I think we played an important supporting role that we recognized with both the Debtors and the Creditors' Committee in their support and pleadings.

THE COURT: Okay. Thank you. All right. Let's see. Who is next?

MS. KOVSKY: Good morning, Your Honor. Deb Kovsky for the Withhold Ad Hoc Group. And at the risk of being

repetitive, I would like to wish you a happy new year.

We filed our application and I know Your Honor has read it, along with the UST's objection and now reply. I want to just point out a couple of quick things, something that we do mention in the reply brief.

We really took the UST's issues to heart. I did reach out to Ms. Cornell after the objection was filed to see if there was the possibility of a consensual resolution or a narrowing of the issues. I did not get a response from her, but we did take a look again at the fees, went through and voluntarily cut another $7,800 from the fee reimbursement that's being requested. That's on top of a discount already being provided of almost $50,000.

THE COURT: So tell me what the amount is that you've --

MS. KOVSKY: I'm sorry?

THE COURT: Give me the amount that you're seeking.

MS. KOVSKY: The amount that I'm seeking is $183,871.

THE COURT: And $3,745.61 in expenses.

MS. KOVSKY: And then $3,582.41 in expenses.

THE COURT: Give me that again, because I have a slightly different...

MS. KOVSKY: I'm sorry. The fees were --

THE COURT: I have the fees. Just give me the expenses.

MS. KOVSKY: $3,582.41. The fees were reduced by $163.

THE COURT: All right. Go ahead.

MS. KOVSKY: And, Your Honor, it sort of goes without saying that these fees are not even a rounding error in the context of these cases. And I would say very de minimis in the context of the value that the Withhold Ad Hoc Group provided here.

Your Honor said that there were gating issues, but those gating issues would have been determined one way or the other and the Debtors would have brought them before the Court and they would have been decided. But this is an adversarial judicial process that we have here. And there has to be a voice on both sides. Because if it was just the Debtors and the UCC putting before Your Honor what should be the correct treatment of Withhold account claims and what is the proper allocation of the value of this estate, a very different answer would have been reached. Because both the Debtors and the UCC were vehemently opposed to the Withhold account holders' position. The Debtors initially seemed to be somewhat aligned or sympathetic to the position that the Withhold accountholders actually owned the assets that were in this no-man's-land of the Withhold accounts. But as Your

Honor probably recalls, shortly before the December 7th hearing, the Debtors changed position and we ended up in a very adversarial posture where the Withhold Ad Hoc Group was fighting not just for the 11 or so members of the Withhold Ad Hoc Group, but for all of the Withhold accountholders and for the proper allocation of the estate assets. At the December --

THE COURT: But the issue I have, it simply can't be that in every case where there's an ad hoc committee that argues the positions not only that would apply to the 11 members of the ad hoc group but to all similarly-situated creditors, you are basically advocating litigating to the extent necessary for legal positions and a result unique to the Withhold accountholders.

And at least what I'm focusing on in terms of Second Circuit law is not -- and if you disagree with my reading of Second Circuit law -- that the benefit has to be to the estate as a whole and not to a specific set. Because the answer would be, if I'm following your logic, any time there is an ad hoc group that's representing some number of a larger number of people in the case that have similar issues that I've got to approve a substantial contribution application for the ad hoc group whether you want 100 percent of 50 percent or whatever percent of what you started out seeking. And that concerned me.

MS. KOVSKY: Your Honor --

THE COURT: In an adversary system, parties are expected to bear their own costs for advocating their unique issues.

MS. KOVSKY: Understood, Your Honor. But I don't think we have the kind of slipper slope that you are alluding to in this scenario. This is an unusual type of case. These crypto platforms that have filed are unlike virtually any bankruptcy case I think any of us have seen given the numerous distinct interests, no clear fulcrum debt, not even any consensus as to what constitutes debt versus what constitutes property of customers. And so there had to be some kind of a global resolution. And not just the Withhold Ad Hoc Group, but I would say all of the ad hoc groups that were active in this case particularly helped drive towards a consensus, towards a plan that was widely accepted, and that saved the estate costs, ensured the proper allocation of value.

The work that the Withhold Ad Hoc Group in particular did, we preserved an -- well, I wouldn't say enormous amount in the context of this very large case, but a very significant, multi-million dollar amount of crypto which I think is significantly more valuable today given where prices are, and enabled that to remain as property of the estate. Reached a resolution that was broadly accepted

under the plan, and drove towards a consensual plan of reorganization that delivers more value to all of the estate stakeholders than would have occurred absent our participation.

And I think a lot of the caselaw also refers -- perhaps not specifically in this circuit, but sort of broadly that -- and the bankruptcy code I think refers to benefit to the case. Not necessarily to the estate, but to the process. And one of the key things that the ad hoc groups did here was to preserve the integrity of the bankruptcy process. Customers could understand and know that their interests were being represented and that they had voices in these cases regardless of positions taken by the Debtors or the UCC. This is a really unusual multivariant case that is I think not directly analogizable to the typical bankruptcy case and --

THE COURT: What worries me about your argument is that it would result in the estate paying for attorneys' fees and costs for any group in a case that advocated throughout the case for their unique interests. And I don't read the law that way. That's my concern.

MS. KOVSKY: But, Your Honor, if that's true, then any ad hoc committee in any case would not be entitled to substantial contribution because every ad hoc by definition is advocating to some extent for its own interests. And I

don't think that's the legal standard, Your Honor. Even if there is a direct personal interest, that doesn't obviate the possibility of a substantial contribution claim. Motive is not determinative. The ad hoc committees may have wanted to advocate for their own interest, but they also advocated broadly for the greater good of larger groups and of the estate as a whole. Everybody was driving towards the same result, to get to a consensual plan process that properly allocated value of the debtors among various competing constituencies. And I think that the ad hoc groups, including my ad hoc group, substantially contributed to that outcome. The Debtors agree.

And just to be really clear, I know that the United States Trustee implied that the Debtors agreed to stand down from any objection to our fees in order to buy votes under the plan. I think that is a completely unfair characterization. The Debtors agreed to refrain from objecting, did not agree to actively support our application, which they have done. Moreover, no member of the Withhold Ad Hoc Group actually agreed to vote in favor of the plan as part of the settlement. So this is purely based on the merits of the outcome and the good result that our hard work, the Debtor's hard work, and the UCC's hard work were able to accomplish. So I think that suggesting that this is a vote-buying exercise is completely

unwarranted.

I also want to point out that the UCC, who represents the unsecured creditors in the case, they are the real financial stakeholders here. And the UCC not only did not object to our application, but actively supports it. And they are under no obligation to do so under any agreement. The only party that has objected is the United States Trustee. Not a single party with a pecuniary interest in these cases thinks that our application is unwarranted.

So, Your Honor, I think that given the broad consensus and support for the work done not just by the Withhold Ad Hoc Group but by the Custody Ad Hoc Group and the Earn Ad Hoc Group, the excellent result that was achieved in this case would not have happened without our efforts.

THE COURT:. Thanks very much. All right. Earn is next.

MS. KUHNS: Good morning, Your Honor. Joyce Kuhns, Offit Kurman, for the Earn Ad Hoc Group.

I'll answer this question first because you've been clarifying what we're requesting. And what we're requesting in fees is three-hundred-thirty-six-thousand --

THE COURT: Hang on. Let me get...

MS. KUHNS: Okay. Get a pen.

THE COURT: go ahead.

MS. KUHNS: Want you to get it right. $336,385.93 in fees. And expenses a total of $10,123.93. And that is broken down between essentially mediation expense for the steering committee members and those Earn members who attended the mediation of $4,830.82 and counsel expenses of $6,934.55.

Your Honor, we strongly believe this case is rare and extraordinary. And in fact, that's the required standard. It required rare and extraordinary efforts and creativity and commitment to get to the exit now in sight. It is not only the complexity of the issues and the challenge of reconciling the bankruptcy into the crypto worlds which makes this case exceptional, but as prior counsel pointed out and I believe committee counsel did in its papers, this is a case that is unusual in that it involves hundreds of thousands of individuals with no primary lender group, no group controlling any class, which pose unique obstacles to building consensus and streamlining administration and mitigating expense.

The Ad Hoc Earn group admittedly was late to the party. All the ad hoc groups have been formed. You have issued your Earn ruling regarding title to Earn accountholder liquid crypto assets in their account. And we did not pursue an independent adversary proceeding. We took

a different tact.

As I mentioned in my opening and closing statements at the confirmation hearing, the Earn Ad Hoc Group throughout, its approach throughout has been to achieve to the extent possible parity and fair and equitable treatment among crypto account holders with the best possible recoveries attainable under all the circumstances and to exit as quickly as possible to reduce the $20 million monthly administrative burn.

And so the Earn Ad Hoc Group welcomed the opportunity. The Debtors and the Committee counsel offered it by inviting the Earn Ad Hoc and the Borrow Ad Hoc to an in-person mediation before Judge Wiles to hopefully reconcile what were significant disagreements among Earn and Borrower contingencies with respect to their treatment under any plan. A major hurdle to overcome to move the plan process forward as the Earn accountholders were indisputably the largest customer group in the case with the Borrower a distant but still significant second.

Going into the mediation, the Borrow group was insisting that the Earn program was a security and that all Earn claims should be subordinated to all other claims under Section 510. So we went in, quite frankly, poles apart.

What was achieved through a commitment to consensus was a plan term sheet which is found at ECF 3064

which was later embedded in plan amendments and in the plan ultimately confirmed the overwhelming creditor support of 98 percent.

At the core of the plan term sheet is Earn group and individual Earn claimants giving up rights to promote consensus and to smooth the path to confirmation, the essence of a substantial contribution, by doing essentially four things. Agreeing with respect to non-contract claims associated with Earn account holders that they would receive 105 percent of their scheduled amount of their non-contract claims in lieu of their actual proof of claim amounts and to support the class action settlement which had yet to be presented to the Court but was really -- the genesis was the mediation, which helped resolve more than 30,000 claims at considerable cost savings to these estates. In fact, only 1.4 percent of those voting opted out of this settlement.

Second, the Debtors and the Committee worked hard to provide creative options to the Borrower Ad Hoc. In particular, the option to repay the balance of their loan in exchange for the equivalent in liquid crypto.

Now, the problem with this proposal was the Debtor's pool of liquid crypto was substantially less than the obligations the Debtors owed the customers. What was the solution? The solution was the Earn Ad Hoc Group was asked and it agreed to give a priority to the borrowers when

electing to exchange NewCo stock for liquid crypto at a 30 percent discount. This was what we believe an important incentive for the borrowers to accept the term sheet while having, quite frankly, given the size of the Earn constituency, a minimal impact on the Earn group.

Third had to do with participation post-confirmation. Having been victimized before, the Earn Ad Hoc Group was very focused on a future seat on the NewCo board and on the Litigation Oversight Committee.

At the mediation, the Earn Ad Hoc Group requested a seat for Earn claimants on the Litigation Oversight Committee and in fairness requested that the Borrower group also be given a seat. That request was granted subject to Committee approval as ultimately reflected in the term sheet and in the planned supplement.

Substantive consolidation also came up and was front and center at the mediation. The term sheet in fact provides that the plan shall be amended to provide for substantive consolidation of not only Celsius Network with CNL, but Celsius Lending LLC and Celsius Networks Lending LLC. Critical to provide the highest recovery and asset recourse to all creditors.

Then there was the concept of the toggle. We were given consultation rights. In fact, consultation rights were given to all mediation participants. This was

critically important as Your Honor saw at the December 21 hearing because it helped to promote consensus on winddown. And as you also observed in your memorandum opinion of December 27th, I would like to address the issue of buying our silence or our vote as well.

Contrary to the U.S. Trustee's suggestion, the Debtors and the Committee's agreement was to support substantial contribution applications that were "commercial reasonable". That's the express language of the Plan Support Agreement, paragraph 13 at ECF 3516. It was not to buy silence.

The Ad Hoc's agreement was to promote consensus and use various additional communication tools at its disposal to promote the plan, which it did through public town halls, hosting Twitter spaces, and its own Google working space that reached over 1,200 additional creditors, not just Earn creditors, and served as an information corridor between Earn and other creditors to build consensus, to educate them on a complex ballot, to direct questions and answers to the Debtors and the Committee counsel from individual creditors who might not otherwise have engaged directly with them, but were willing to do so with their constituents.

And so if silence was the objective, it was certainly not the result. In fact, the Earn Ad Hoc Group

continued to advocate actively inside and outside this courtroom for better creditor representation on the NewCo board with the considerable assistance of Mr. Dixon through his YouTube channel ultimately resulting in three board observers being added for the benefit of all creditors, not just Earn, who will ensure a creditor perspective and voice will continue to be heard at the table going forward now on the Mining Co board.

And so support and building support and consensus were essential in this case, essential to its ultimate success. And it's not surprising that this case is in fact replete with supports and joinders, and appropriately so given the diversity of the constituents involved.

As I said, we've asked for a fee through the end of September which we believe is fair and reasonable as supported by the Debtors and the Committee, which support is appreciated, and we believe significant.

While the U.S. Trustee cites In re Best Products as limiting substantial contribution awards to rare and exceptional circumstances -- which we believe exist and we have met that criteria -- Judge Brosnan cited with approval In re In re Richton Intern. Corp., 15 B.R. 854 (Bankr. S.D.N.Y. 1981), in which an award was granted and the award in court specifically noted that the recommendation of the Debtors and the Committee, as here, was a factor in its

decision.

So we believe the Earn Ad Hoc has demonstrated it did not act solely in its self-interest and its counsel did not duplicate the efforts of others. It played a unique and necessary role in an exceptional case with hundreds of thousands of individual creditors in enhancing communications, fielding consensus and engagement leading to wide creditor acceptance of a plan that has ultimately been confirmed, which contained adjustments to creditor treatment that minimized objections and therefore administrative expense, smoothing the exit for the benefit of all creditors.

Your Honor, the Trustee raised certain objections to documentation I believe. We have consistently as a group asserted that we are not court-retained professionals and do not have to meet the specific requirements of Section 330. Nonetheless, Your Honor, we have provided detailed time entries originally to the U.S. Trustee, the Debtors, the Committee, and also to the Court and have attached those to my declaration of support at ECF 4187, which was filed in connection with the reply filed last week.

We have not presumed to supplement for the period after the confirmation hearing, Your Honor. Although we have put forth that request actually in our application and reiterated it in our reply.

As you are aware, the ad hoc has been actively involved through the toggle, approval of the StakeHound settlement, and the MiningCo transaction last month. And so we would request that we be allowed to file a supplement through the effective date that is now hopefully imminent.

With respect to actual and necessary expenses, Your Honor, as I said, we have broken them down into two buckets. We did give a detailed itemization. The U.S. Trustee raised certain questions. I believe we have answered them in the reply, but I will hear shortly I suppose from Mr. Bruh if that's correct. And we also provided backup documentation to the U.S. Trustee's Office for all the expenses.

As far as the expenses that we included for Rebecca Gallagher, Your Honor, Ms. Gallagher did become a member of the Earn Ad Hoc Group. She certainly has contributed as a class action plaintiff. She came. It's minimal travel expense that you see to talk to Mr. Herrmann, who at that point had been an active pro se claimant and was the chair of the steering committee for the Earn Ad Hoc to discuss her concerns about the upcoming mediation.

THE COURT: Ms. Gallagher's expenses in terms of participation, those were -- those have been paid for already.

MS. KOVSKY: No. It's very de minimis.

THE COURT: She has asked for an additional --

MS. KOVSKY: It's a car -- she drove by car from West Virginia --

THE COURT: Stop. Stop. Stop.

MS. KOVSKY: Yes, sorry.

THE COURT: Because I think if I'm not mistaken she has asked for an additional crypto distribution. And I want to separate that out from whatever -- have her expenses been paid?

MS. KOVSKY: No, Your Honor. The only expense we received from Ms. Gallagher -- I think she was -- her pleading goes to what she considered compensation for her substantial contribution as opposed to the expense component at 503(b)(3)(D). What we did is we included any ad hoc member expenses on our application.

THE COURT: That's what I wanted to be clear on.

MS. KOVSKY: Happy to answer any other questions, Your Honor.

THE COURT: Focus if you would on what you believe in terms of the class claim mediation itself, what was your role and the role of the Ad Hoc Committee in that?

MS. KOVSKY: In the mediation?

THE COURT: Yes.

MS. KOVSKY: Yes. So we started talking about the fact that we needed to simplify the claims resolution

process and what would be a mechanism to do that. And there was a suggestion that if there was a bump-up of five percent, ten percent -- percentages were thrown around obviously in the room. We were actually all in the room together. This was not a breakout session. This was everybody together in a room with Judge Wiles. And so we discussed a range of 100 percent. What would be reasonable and what could we really sell, quite frankly, to those who felt based on their filed proofs of claim they had valid, non-contract claim against these debtors and others? What would be the incentive to get them to vote and to give those up? Because they were giving up a filed claim which they believed in strongly, obviously, versus a scheduled claim. And so that's how that conversation occurred, because we were together and we were really talking about if we're going to leave and we're going to file and sign this term sheet and a plan support agreement, what do we think is a reasonable compromise in the future? What is fair and reasonable and what would our constituency buy into? And that's how it came up and that's how it became part of the term sheet.

THE COURT: All right. Anything else you want to add?

MS. KOVSKY: I have nothing further, Your Honor.

THE COURT: All right. Thank you very much.

MS. KOVSKY: Thank you.

THE COURT: Mr. Koenig...

MR. KOENIG: We still have a few people that we support. So there's Mr. Herrmann, Mr. Frishberg and Mr. Tuganov I believe should present and then --

THE COURT: All right. Well, let's -- fine. Mr. Herrmann?

MR. HERRMANN: Thank you, Your Honor. Immanuel Herrman, pro se creditor. So I just wanted to touch a little bit on some of my individual contributions to the case.

The first, earlier in the case, was expanding -- working to expand the examiner's report by raising important questions earlier in the case and actually filing a request to extend deadlines and then papers. And that did result in an expanded examiner's report.

Just before I do touch on some of the contributions, I wanted to note that overall the contributions I made in the end resulted in more coin. There were many people arguing in these cases that their coins were not property of the estates. In fact, it was actually -- there were less -- in fact, it was everybody except Earn customers. So in a way I was one of the Earn customers earlier in the cases making similar arguments.

And I think in the end, you know, that's a

strategy. Obviously there weren't enough coins. But in the end, we actually got to a global resolution that brought more coins into the estate. In other words, we've settled. You know, the borrowers were making those arguments, others were making the -- withhold. And in the end while custody was ruled not property of the estate, basically everyone else ended up making a deal in New York where it all was property of the estate and everyone could live with the deal and there was enormous support among creditors.

So I think getting in the end the global settlement that I signed in New York, it was a long road to get there. But we ended up actually benefitting the estates by -- you know, a lot of the lawyers have already touched on it, but there were, you know, the five percent deal that we made, that kind of thing.

I think other contributions -- so yes. So some contributions I made were expanding the examiner's report, which Your Honor ruled obviously to do that. But that was a really good order that helped us get clarity on what had happened.

I think also the argument with regards to the Earn appeal actually -- the ruling that the order was interlocutory gave us actually more leverage going into mediation to resolve issues, sort of like how the preferred litigation created ambiguity and encouraged a settlement.

Again, it's like there was -- the case was so complex, so many issues at first impression, so many arguments that, you know, coins were or weren't property of the estate. But actually having ambiguity in this incredibly novel and complex case actually in the end helped us globally resolve everything and get to a resolution, which is exactly what happened.

Other contributions were incentivizing the preferred shareholders to settle. I think during that appeal, which is covered in the application, the prospects of going up against the UCC and (indiscernible) in that case incentivized a settlement, which paved the way to confirmation.

In the mediation in New York, pro se creditors resolved all adversary proceedings and appeals. And by agreeing to that 105 percent fraud sweetener helped pave the way to resolve thousands of similar claims. IN other words, both by example and by public communication and encouraging other creditors to accept the settlement. That helped resolve what could have been an incredibly difficult claims process.

So in terms of the way the adversarial system works I think -- I've learned a lot during this case and I'm pro se obviously -- is there was a litigation strategy if not property of the estate. That's true. And pretty much

everyone argued that. But there aren't enough coins. So what did we do? We can't litigate it all for every single customer. And we make a deal. And that's exactly what happened here. Another thing I contributed to (indiscernible). So actually the preferred appeal got right to the heart of substantive consolidation issues. That was also resolved through the term sheet. And until that agreement in New York and substantive consolidation, customers didn't have the economic effect of claims against all entities. We did once we confirmed the plan consistent with that term sheet.

I think the lawyers have made many of these arguments well and so I don't have to repeat all of them here. I join in those arguments with respect to my application.

Yes, as a pro se I can only represent myself, but just like an ad hoc, motive is not determinative. I may have wanted to advocate for my own interests, but I also advocated in the end broadly for the greater good. I gave up direct claims, including adversary proceedings and appeals working toward a consensual plan process. Working to expand the examiner report, settle with the preferred, and make a deal that ended the litigation, a massive amount of litigation in New York City.

There was also an argument I believe in the

Trustee's filing along the lines of the Debtors want the pro se to silence -- or the Debtor is trying to silence vocal individual creditors. Nothing could be further from the truth. We didn't agree to ultimately work on a plan support agreement, we took a long time to sign it. We were very (indiscernible) with our concerns. In the end when we got the best we could get for creditors generally for everybody -- not for myself -- that's when I agreed to sign the Plan Support Agreement. And so again, that was putting other creditors first, giving up my own claims as part of that and agreeing to support the plan. And I'm happy that we have a plan.

THE COURT: Okay. Thank you very much, Mr. Herrmann.

MR. HERRMANN: Thank you.

THE COURT: All right. Mr. Frishberg?

MR. FRISHBERG: Thank you, Your Honor. I'll start off with I've been having some connection issues. So if I cut out, I apologize.

As Mr. Herrmann has noted previously, (indiscernible) shareholders were incentivized in part due to our actions. They may have settled without our participation, but it would have taken a lot more time and resources. And (indiscernible) settlement.

The amounts requested in my application are

honestly not even a rounding error compared to the amounts that have been incurred in this case. And it likely will (indiscernible) far more to just (indiscernible) expense actually requested. So I'll try to keep this as quick as possible since it is very de minimis.

Unlike the U.S. Trustee implied, there was zero quid pro quo and the Debtors were not silencing vocal pro se parties or any parties in general in any way. If they were doing so, they did a very bad job because I have been very vocal even after signing the PSA (indiscernible) following the terms of it, obviously.

I also agreed to drop very valid claims against the estate (indiscernible). I'm not honestly sure why the U.S. Trustee (indiscernible) putting our expenses and requested fees under such a microscope when they are so de minimis, especially when they're not applying the same treatment to the tens of millions of dollars in professional expenses.

(indiscernible) arguments, relevant arguments that that were made by other parties (indiscernible) in this case. And I would like to restate what I said in my application since obviously I don't want to reargue the points.

That is all, thank you, Your Honor.

THE COURT: Thank you very much, Mr. Frishberg.

All right.

Mr. Sabin, are you arguing next?

MR. SABIN: Good morning, Your Honor. Jeff Sabin from Venable on behalf of Ignat Tuganov, an Earn Rewards accountholder, a class claim representative, a plan mediation participant, and a party to the plan term sheet and the plan support agreement.

If you would have in front of you, Your Honor, or if you could find Docket 4211, which has Exhibit B so that I will start with the numbers. In addition, the numbers get supplemented by a statement we make in Paragraph 7 of Docket 4211. So let's go to the numbers.

And, Your Honor, I will attempt to answer your question that you started with with the first presenter today, which is what benefit to the estate in terms of what we did. Right? Let's deal with the numbers first.

So numbers on Exhibit B to Docket 4211 say that the aggregate amount that we are seeking is $1,436,408.60. And that covers all of our time that we think is evidenced by our submissions of our detailed, unredacted timesheets through December 31, 2023. Paragraph 7 of Docket 4211 makes clear that not withstanding our continuing efforts, together with those of Ms. Kuhns, to address with the Committee and with the Debtors questions that arise and suggestions for how best to expedite the plan effective date and

distributions and otherwise facilitate things after those distributions we will not seek. Okay? In paragraph 7 of Docket 4211 in the third supplement. We will not seek any kind of additional time for those service that we think would benefit these estates that we will render and continue to render until we get to plan effective date.

Those are the numbers, Your Honor. They are not broken down for a different reason. They are not broken down by way of expenses versus time because we were in discussions with the Committee and the Debtor as to and had discussions which resulted in our voluntary reduction of our request by almost 18 percent. The actual dollars for that 18-plus percent represents $317,957.65 and doesn't include time subsequent to December 31, 2023 which we will (indiscernible) ask this Court to otherwise consider for substantial contribution over and above.

Your Honor, Mr. Tuganov, unlike the numerous pro se creditors in this case, hired counsel at his own expense and risk not only to be active from the beginning of these complex and novel cases. To maximize recovery for himself? He admits that. If he were here, he would admit it. And I admit it. But also acted to maximize recovery for other not just earn reward accountholders, but since October 12th, 2022 has taken actions that were intended to and we believe did significantly benefit all of these estates and their

creditors. Accordingly, he and his counsel believe for reasons set forth in his application at Docket 3666 and his reply to the objection of the U.S. Trustee at Docket 4184 and as evidenced by unredacted time records and a summary of the time spent in each of five categories of substantial contribution that I will try to summarize in my oral presentation to you. So the detailed records, the five categories, they were filed at Docket 4010 for the time of October 12th, 2022 through September 11th, 2023.

At Docket 4158 covering the period December 22 -- excuse me, covering the period from September 12th, 2023 through November 9th, your decision and confirmation of 2023. And at Docket 4211, covering the final period from November 10th, 2023 through the end of last year, December 31, 2023.

He believes that those pleadings and the records themselves set forth a case for meeting his burden of proof that is necessary by a preponderance of the evidence for this Court, pursuant to 503(b)(3)(D), and more importantly for his case, 503(b)(4). Because he is not seeking expenses for himself. It's his legal expense that he is seeking reimbursement for as a substantial contribution.

He believes as construed by the various decisions in this district, not only including those cases that you heard from the wonderful presentation earlier this morning

from Ms. Kuhns, but also including the decisions in Synergy, Bayou Group, and Granite Partners are sufficient to overrule the objection of the U.S. Trustee and the very late joinder by Mr. (indiscernible), but also to approve Mr. Tuganov's application as reduced.

Further support for Mr. Tuganov's application we believe can be found in the final pleadings of the Debtors and the UCC, those persons and entities who are best situated to evaluate Mr. Tuganov's application and work, each of which provide specifics of Mr. Tuganov's benefits to this case and to all creditors that otherwise additionally support under the applicable law and our burden to show benefits to the five categories. I anticipate and hope that each will in their oral presentations following mine confirm and continue to confirm what we believe is that support. Okay? And we otherwise thank them.

Specifically, Your Honor, as I indicated following discussions with the Committee and the Debtors, we voluntarily agreed to reduce our fees (indiscernible) presentation.

So I now want to answer your questions. What's the benefit to the estate and creditors? I want to start with the efforts early on in October of 2022 when we were the first to seek an expansion of the scope of the examiner's investigation to include Ponzi and other matters.

And we concurrently sought an early plan mediation and we were the ones, and only we, to negotiate the stipulation with the Debtors, with the Committee, and with the examiner that otherwise led to the expansion of the scope.

That expansion of the scope otherwise led us once we saw the findings of the examiner to consider another incredibly difficult issue, which with hindsight we all saw, but our client had seen and we had seen from activities in other cases similarly situated but not as novel as these -- including the Woodbridge cases, which was a Ponzi case -- that said perhaps we should bring -- and we did commence an action to declare the case as a Ponzi. Which in our view probably still may be true depending on where this all goes, but not in these Chapter 11 cases. But in any event, a Ponzi from our experience in other cases would have streamlined the claims adjudication process (indiscernible) to the cases and to all creditors in these cases.

That adversary proceeding secondarily sought a declaration of substantive consolidation of all these debtors again for the benefit of all of the estate.

THE COURT: Stop a second. Tell me what was the expansion of the examiner's investigation that you believe provided the benefit? Obviously I remember quite well the initial scope was something that had been negotiated and (indiscernible) indicate any additional issues they wanted

covered in the investigation. I think she did an excellent job. But tell me what it is specifically that you think was expanded in the examiner's investigation and which the results of which helped as this case moved forward.

MR. SABIN: I think the answer is twofold, Your Honor. One was a focus as it became focused later --without telling you joint interest privilege, et cetera -- on the migration from the U.K. to the U.S. Okay? Which was a huge issue. And the second was a focus on all of the different ask Mashinsky anything, okay? Which went on for pages. Okay? Kudos to the examiner. But which we read to say you know what? At some point this may very well look like convincing two things that Mr. Mashinsky wanted to do; convincing people to stay in and convincing to buy new money in. Okay? And those we thought and pled in good faith sound like, looked like indicia, together with other indicia, of Ponzi cases.

So it was the findings of the examiner related to those two things which if I went back and reread our own complaint are responsive to your question.

THE COURT: Okay. Go ahead.

MR. SABIN: So what then happened, consistent with what our client has always attempted to do, talk first, try to resolve before you delay and cause this estate to spend money. A separate issue for the benefit to the estate.

But most importantly, it led to immediate discussions with counsel for the debtors and for the UCC of, gee, what are we going to do with this adversary and when are we going to do it. And the essence of it led to a story that I will unveil as it otherwise leads to the class proof of claim and leads to mediation issues which we again highlight as additional benefits to all creditors and the estate. And it did so by this. We stayed that adversary. There were never (indiscernible) answers, there never was a motion to dismiss. There never was discovery. And instead, we stayed it in a fashion that said we'll give you a certain notice to the UCC, to the Debtors before we ever decide to pull the trigger. We never did.

What did we get for that? We got information that otherwise we thought would be helpful to resolving either our own issues or the whole case issues. And we got that in the stipulation which was entered April 27th, 2023, pursuant to which in the first instance the UCC said we'll give you information. Sign the protective order, we'll start giving you information. And we started getting that information. And that information also was in consideration for another thing that the stipulation did to save this estate. If we were ever to pull the trigger in the adversary, the Committee said why waste time. We would like to intervene. And we said fine. Never happened. But it was in the

stipulation.

So that stipulation and the information provided led to may discussions. First with the UCC and then with the Debtors under executed joint interest agreements which continue to today. And pursuant to those joint interest agreements, we were then discussing issues critical and anticipated and needed to be addressed by the entirety of the cases before we exited Chapter 11.

At the time you may remember a threefold or fourfold approach. You had the preferred over here, you had (indiscernible) motion for an intercompany claim and motion for substantive consolidation and some other things. But again, our own experience in another case, which was Woodbridge, which was a Ponzi case, led us to discussions that may have already been in the mindset of the excellent work being done by the Committee of the use of a proof of claim for the entire class of account holders. Not just Earn, not just retail; everybody who hadn't settled by then.

And indeed, there was a motion filed by the Committee seeking class status if you recall. And independent of some early skirmishes with what is it that should or should not happen by way of opt-outs and voting and things of that nature, which are pleadings which we recite and our papers show, we quickly got to a consensus with the Committee. Let's proceed with the motion. And

that was concurrent, as you may recall, with the litigation proceeding, with the preferred at the time.

And not only did we work with the Committee, but Mr. Tuganov was chosen to be one of the three proposed class representative. And that otherwise meant and required -- and he understood that -- that he had to assist. Okay? Telling his own story, telling what he knew about these cases. And he was an early Earn Rewards customer. And he had knowledge -- again, without highlighting joint interest -- about the migration which was very relevant.

He had knowledge that may or may not have otherwise led to the actual draft of the class proof of claim which was addressing non-contract types of claims that would be asserted in the class proof of claim.

And independent of his own preparation and time spent with us and time spent with Committee counsel to prepare for potential depositions or testimony had that motion actually gone to a hearing on the contested matter, it otherwise had the benefit -- again, of focusing what was next. Because towards the end of that process, the preferreds settled.

And I want to highlight just for a minute -- and I don't want to argue this and it's not in our papers. But that preferred settlement raises to me an interesting legal issue not raised in our papers, and I don't want to argue it

now. It's sort of like just let's not forget that even in this case and together with at least two others, 9019 has been used as a method to solve adversary proceedings and pay fees in connection with non-retained professionals. And indeed if I recall right, $24 million out of the $25 million went to pay for fees in connection with that litigation.

In any event, that settlement didn't necessarily resolve the still-vexing plan issues including treatment of retail borrowers and other issues highlighted, some of which I will highlight again because they are so important, by Ms. Kuhns in her oral argument earlier this morning.

So to paint the picture by late June 2023, cases benefitted from the then-recent settlement proposed with the preferreds. But then they also benefitted by what do we do and how do we identify and focus on the vexing issues that we need to solve, all of us and all the estates, to get out.

And so mediation was suggested, mediation was held, and mediation was participated in by Mr. Tuganov and his counsel over three days. But before that, the mediator had requested the preparation of (indiscernible) papers. Some of our fees were exactly for that.

And as you asked Mr. Kuhns, so what was your role, I will answer the same question for myself. Our role I think was in two hats if you want to think of it. Facilitator, i.e. facilitating consensus, and a creator. A

creator of, hi, what's the solutions, what's the words we need to get the solutions, and how do we do it.

And in connection with that, the class proof of claims settlement was key in two ways. Not only did it set a finite number for everybody who did not opt out -- there were only a few with hindsight who didn't opt out at five percent above the scheduled amount. But more importantly, it avoided litigation over whether the Earn rewards program and/or the Loan program for that matter could have been a security requiring consideration of whether those claims should be subordinated under 510(b), an issue hotly discussed at the mediation, especially in view of pending litigation that still is pending in terms of some litigation with regulators in other cases.

Number two. It resolved the treatment of retail borrowers. But the importance for our own clients as to how that was resolved was that that portion of our adversary seeking substantive consolidation was adopted. It wasn't adopted in full -- and as we know we left the mining company over here because the facts were it was separate enough. Okay? And hopefully the SEC will say that soon. And that a Form 10 and a registration statement will be approved. But the key was substantive consolidation of both the then U.K. lenders lending entity and the Debtor U.S. lending entity.

So Mr. Tuganov is a party and signed the plan term

sheet, was involved in negotiations pursuant to which the plan support agreement was otherwise executed. Both of those gave him the benefit of being a party to be consulted with if we had to toggle from a NewCo plan to a Mining Co plan.

So by late September 2023 after the vote was in, Mr. Tuganov's role and that part of our expenses related to his continuing contributions made consistent with his obligations under and his rights under the PSA which included -- again without violating joint interest -- discussions, comments, written suggestions for proposed findings of fact, for the confirmation brief, for the trial that was held on confirmation, for the toggle and the preparation for the toggle, for the responses to the orderly winddown, to support for the StakeHound settlement, which by the way I'm happy to otherwise inform the Court, because it is public, that the settlement and all of the tokens that were to come in has gone effective. A very good thing for all of the estate.

And lastly, Your Honor, the preparation for the initial distribution and the effective date. Were those costs under 503(b)(4) reasonable based on time, nature, extent, and value of the services? We think so. In fact, we think our firm's rates, including my rate, are probably less, significantly less than rates for retained

professionals in this case.

I ask to reserve some time, Your Honor, if necessary to respond to the U.S. Trustee. Our responses are in our reply so far. And otherwise, as you consider and (indiscernible), I hope you can come to a conclusion that supports our application. Thank you, Your Honor.

THE COURT: Just let me look through my notes before...

So a portion of your fees were incurred in connection with the retail borrower settlement?

MR. SABIN: Inside the mediation. I've already highlighted that. So that related to the subcon of the two lending entities to the fact that 510(b) wasn't going to e used against either Earn or Borrower and that the settlement itself otherwise contemplated inside the plan term sheet, the increase of the class proof of claim for everybody, including retail borrowers, to 105 and was contemplating two other things in the plan term sheet, Your Honor, which are in the plan, which is giving retail borrowers the right to choose between setoff and paying off.

THE COURT: So I'm focusing on that retail borrower settlement because it seems to me -- I mean, why isn't it just an ordinary settlement germane to the bankruptcy that didn't necessarily increase the size of the estates? And that's part of the test --

MR. SABIN: I think we are talking past each other.

THE COURT: Okay.

MR. SABIN: There was a prior retail borrowing settlement proposed. And I think that's what you're talking about. And then there is the retail borrower settlement in the plan term sheet.

THE COURT: Okay.

MR. SABIN: All right? And I believe to the former, I think that information that was had had and discussions we had subject to joint interest had uncovered facts that otherwise were discussed with the Committee and the Debtors that would say that settlement just should not go forward and should not otherwise be included in the plan (indiscernible) time.

THE COURT: All right. I don't have any other questions.

MR. SABIN: Thank you, Your Honor.

THE COURT: Thank you very much. All right.

Mr. Koenig?

MR. KOENIG: For the record, Chris Koenig for the Debtors.

THE COURT: So how we will proceed, you're speaking in support of substantial contribution obligations for the ones we've covered so far.

MR. KOENIG: Correct.

THE COURT: Mr. Colodny, you're going to speak to this as well?

MR. COLODNY: Yes.

THE COURT: Okay. And then we'll turn to Mr. Bruh. Go ahead.

MR. KOENIG: Great. Thank you, Your Honor. So I don't intend to be duplicative of the folks that have come before. What I would like to do is provide you with what I hope is a useful perspective of an estate fiduciary and to help you work through what I think is the most challenging issue here, which is why is this case different, why is this a substantial contribution that is different than what happens in every run-of-the-mill bankruptcy.

So this is an extremely unique case for a variety of reasons. But from the Debtor's perspective, the most important of which is other than the Committee, there were no represented parties and the vast majority of the creditors here are unsophisticated retail investors, over 600,000 of them. And so from the very early stages of the case, we as the Debtors were focused on how are we ever going to confirm a plan, how are we ever going to get support of retail investors who are unsophisticated and not familiar with bankruptcy when we don't have the usual -- they are not represented by counsel, there is not somebody

that we can go to as a conduit who is representing them.

And so I would like to take Your Honor back to the early days of the case when there were so many letters being filed, so many pro se motions being filed. Because there was no represented party -- I'll put custody and hold it to the side for a second because they got organized pretty quickly. But I will focus on Earn. The first six months of the case there were so many individual pro se motions largely from Earn accountholders who were trying to litigate the issue of property and we were trying to put a tent around the circus and tried to streamline it into one proceeding. We ultimately filed the motion that led to the trial in December and led to Your Honor's ruling. But that was incredibly inefficient, led to dozens of objections, required many depositions, required testimony of witnesses and ultimately was a very expensive endeavor. And importantly, the Earn Ad Hoc Group was not there for that. Ms. Kuhns had not yet arrived on the scene.

So by contract, I'll -- that was the earn experience. The Custody and Withhold experience was different because of the involvement of the Custody and Withhold ad hoc groups. Very early on in the case, they filed their litigation. And I think if you compare the filings of the Earn accountholders and of the Custody and Withhold accountholders, there were almost none for Custody

and Withhold because they felt like they had a voice. They felt like they had somebody that was representing them. And I think that it ultimately inured to the benefit of the estate and reduced the cost of the estate that we had one streamlined litigation with a represented party who was representing the interest not only of their specific clients, but of similarly-situated clients. And I think given the administrative run rate of these cases, the cost that we would have all incurred to deal with what certainly would have been many more pro se motions, letters, objections, was significantly reduced by the experience that we had with Custody and Withhold. And we had a very streamlined litigation. We entered into a stipulation that divided up their arguments into a way that was efficient for the estate. It allowed us to argue gating issues first and leave other issues for later depending on Your Honor's ruling. And that really saved an awful lot of expense for the estate and ultimately led to a settlement. Had these ad hoc groups not had been here, we would have had to go through the Earn experience all over again. We would have had to file a motion about ownership of property of the estate and we likely would have had dozens of objections and had to put on testimony. I think it is beyond a doubt if you compare the Earn experience with the Custody and Withhold experience, it's wildly different because of

participation.

I often represent debtors. That is the primary area of my practice. And ad hoc groups in most cases represent sophisticated counterparties who have done this before and may not even need counsel in order to understand the basics of bankruptcy and what their rights are.

Here, it's very different. We had no one to negotiate with to try to move the cases forward. The only path was litigation through Earn. We filed the motion we filed because we felt we had to. There was nobody to negotiate with, unlike Custody and Withhold.

In a normal Chapter 11 case, I would be offended if an ad hoc group filed a substantial contribution motion. Because I would say they're doing what they did in order to advance their own interests. And of course this is -- under the American judicial system parties ordinarily bear their own expenses. This case is different. We would not be standing here today if not for these parties because I'm not sure that we would have gotten support for any Chapter 11 plan.

Just finishing out on Custody and Withhold, the settlements that we entered into with them are the cornerstones of the plan. It is notable that the plan that was proposed took place almost immediately after those settlements. And I'll tell you speaking from the Debtor's

perspective, the time at which we realized that we had a good chance to propose and confirm a plan was when we got to deals with the Custody and Withhold Ad Hoc Groups because we knew that we had groups of creditors that had organized, that could reach a reasonable and value-maximizing settlement and that those settlements could be embodied into a plan that would allow these estates to move forward and to get out of bankruptcy.

Also notably Custody and Withhold, we think that the settlements that we reached there and the litigation that we entered into helped to mold the preference litigation that ultimately was included in the plan. Had we not reached that settlement and had we not explored that litigation, we would not have had such a streamlined process for settling preferences as we had in the plan, and I think we would have seen an awful lot more litigation. Perhaps there would have been avoidance actions commenced by the estates. Perhaps you would have had individuals commencing adversary proceedings for rulings that they did not have preference exposure. I think the benefit of the preference settlement embodied in the Custody and Withhold settlements served as cornerstone for that important part of the plan and ultimately saved the estate a bunch of value.

So let's turn to Earn and Ms. Kuhns. So I explained how the Earn trial was not orderly in part because

Ms. Kuhns was not on the scene. I think it's important to note that around that time -- maybe it was Mr. Herrmann, I don't remember exactly who filed the motion for mediation. And at the time we all opposed it. The reason we opposed it is we did not believe that it was a good use of time or resources to negotiate with a couple of individual pro se creditors. How are we ever going to build a consensus by negotiating with a couple of creditors in a room. And I think that it is not at all a coincidence that mediation happened when it did. It happened because that is almost exactly when Ms. Kuhns got on the scene and organized her group. And she had town halls on Twitter and generally reported to Earn in general. And we felt very comfortable that negotiating with the Earn Ad Hoc Group meant negotiating with Earn. And Earn had to that point been a bit of an unruly group and a disorganized group. I mean, Mr. Herrmann was doing a good job as he could to try to corral them. But all of the other ad hoc groups had counsel and Earn did not. And Earn is of course far and away the largest creditor constituency. And so it was only because of the emergence of the Earn Ad Hoc Group that we felt mediation was reasonable and appropriate at the time that it was, and that mediation was widely successful. I won't belabor the point. But just really quickly, it resolved litigation between Earn and Loans, which is another

cornerstone of the plan. And the class claims settlement should not be overlooked. Because we spent an awful lot of time, the Debtors -- and I'll speak for Mr. Colodny and the Committee -- in trying to figure out how to resolve claims in this case. Because we had 600,000 creditors. We had tens of thousands of proofs of claim. And we want to get distributions out to creditors promptly. But of course everybody has their day in court and everybody has the right to right for what they believe they are entitled to in their claim. And so we were dealing with that due process problem on the one hand, and the problem of we need to get distributions out to people efficiently on the other hand.

And as Your Honor probably remembers, we went through several fits and starts trying to come up with an efficient process. We first filed some claims objections to certain pro se creditors' claims that we said were going to be bellwether objections, and that did not seem as though it was going to be an efficient process once we got it started. And then the Committee filed a class claim motion. And it's unclear -- you know, had that been litigated all the way to the end, I think that that would have been expensive and time-consuming. And the class claims settlement resolved hundreds of thousands of proofs of claim and saved the estate enormous expense. I'll tell you that at the time we had the settlement, we were preparing claims objections for

every claim that had been filed because we had to in order to try to move the cases forward. That would have been enormously expensive, time-consuming, and wasteful. And we think that the class claims settlement resolved nearly every accountholder proof of claim. There are around 2,000 opt-outs of over tens of thousands of creditors that had filed proofs of claim. And we think that that will speed distributions so that when we can emerge, we can actually make distributions to most every creditors in the case instead of then having to go through a long and drawn-out claims resolution process.

So we think that we would simply not be here without the ad hoc groups. I don't believe that we would have a confirmable plan. I don't think that we would have had the votes that we had. It was integral to the process that these individuals who are unsophisticated in terms of the Bankruptcy Code had counsel representing them and advising them on the way that bankruptcy works. Before these ad hoc groups were involved, we saw all sorts of motions. You saw motions to convert the cases to Chapter 7, you saw motions to force mediation. You saw a variety of lift stay motions.

And order really came to the case in large part because of these represented parties. And as I said at the beginning of my argument, I think pro se parties filed less

court filings because they saw that there was a lawyer on the scene who was representing their interests and they didn't necessarily need to be involved.

So I think that this case is very unique and their contributions are different from the contributions of your ordinary ad hoc group who are really just representing their own interests. Each of these groups has done what they can to move the cases forward. I've talked about Custody and Withhold, Earn. We talked about mediation that they participated in. I don't believe the mediation would have been possible without them. The organization that they brought to the Earn community as a whole. You saw so many letters and motions before they arrived on the scene, and it really dwindled after that.

I want to speak about Mr. Tuganov and his counsel. Mr. Tuganov is frankly the party in the case that has probably been here the longest and has been involved throughout. The Custody and Withhold folks were very involved for the first half of the case. They reached settlements and sort of, you know, there was no need for them to continue to be involved. And Earn came about in the latter half of the case.

Mr. Tuganov has been here throughout. As his counsel noted, he was instrumental in getting the examiner's scope expanded. I'll tell you that he was very helpful in

mediation and in helping to drive consensus there. I don't believe that we would have been able to do it without him or his counsel. And in general, both he and all of the ad hoc groups had very helpful comments and questions throughout. Not on issues that were particular to them or their constituency, but to try to get to the right answer.

On the disclosure statement, each one of the counsel had very helpful comments and questions that helped us craft a very complicated legal document in a way that their clients would understand. We are lawyers for the company, we are not representing the individuals. We don't hear the questions directly. They did, and they helped filter those questions through to us and make sure that the plan, the disclosure statement, and the associated documents were understandable by the common creditor here. I don't think that we could have done it without them.

So for all these reasons, I think that these cases were much more efficient. There was far less administrative cost. I think it's notable the costs that are being sought today are pretty de minimis in comparison to the costs of the cases and the retained professionals. Ms. Kuhns' application is in the hundreds of thousands of dollars. And I'll tell you that given the amount of motions and letters and phone calls that we would have otherwise all collectively had to deal with, I think there is a

substantial cost savings that these individuals felt that they had a represented party that they could go to with their questions that could be resolved without needing to invoke the (indiscernible) process.

So for these reasons, I think that this case is very different from your ordinary Chapter 11. We had a disorganized group of creditors before the arrival of these ad hoc groups. This is very different from a normal case that has sophisticated parties. And it really brought order to the case that was crying out for it. And I just don't think that we would be here today.

I think another important fact and a distinguishing fact is that no economic stakeholder is objecting to these applications. As I said, in an ordinary case with sophisticated bondholder groups, if somebody filed this motion, I would be the first to stand up and object and say that that's not appropriate. I think that both of the estate fiduciaries are standing shoulder-to-shoulder with each of the applicants, and importantly so. In ordinary cases, I would not be standing here today. I'm doing that because I believe, and we all collectively believe from the Debtors, that these folks have made a substantial contribution and that we would not be here without them.

I'll just briefly address the comment that somehow we were buying silence. I'll tell you that when we entered

into the agreement to support, I was not expecting to stand up here for this long and address Your Honor and stand shoulder-to-shoulder. We of course support their fees. But it's really what they've done since the mediation to move the cases forward and to help us get out that have made me feel so passionately about this issue. And I believe that they have moved the cases forward, and we would not be here without them. So certainly we are not buying their silence. I had frankly expected to file a milquetoast joinder and stand up here and have some brief remarks and let the applicants carry the water. But we think it's appropriate because they have really done so much to move the cases forward. And I hope that Your Honor takes all of this into consideration when you -- you have what I know is a very difficult task ahead of you to consider these applications in the light that they are in this unique case.

So unless Your Honor has further questions.

THE COURT: Thanks, Mr. Koenig. The one thing, I would like you to order a transcript from today on an expedited basis because I want to be able to review the transcript.

MR. KOENIG: We will do so.

THE COURT: Thank you.

MR. KOENIG: Thank you.

THE COURT: Mr. Colodny?

MR. COLODNY: Good morning, Your Honor. Aaron Colodny from White & Case on behalf of the Official committee of Unsecured Creditors.

You have to deal with a legal issue. There are three requirements in the Second Circuit for someone to have an application for substantial contribution granted. The first is the one you've touched on already, did the efforts benefit more than the creditor's self-interest. Courts look at the estate, broader classes of creditors, not self-interest. Second, did they provide a demonstratable benefit to the estate, and third, were they duplicative of estate professionals and reasonable under the circumstances.

We support the applications of the Earn, Custody, Withhold Groups, Mr. Tuganov, Mr. Frishberg, and Mr. Herrmann. And Ms. Gallagher, but defer to the Court as to what is a reasonable expense with respect to her.

As my partner, Mr. Wofford says a lot, it's our clients' money that's at stake here. This estate is primarily an insolvent estate in which every asset is owned by the creditors. And here those creditors are retail holders that lost their own personal assets. This is not a case where you have somebody that has a job at a corporation and they're getting paid by that corporation to protect their intertest. These are people who have lost their houses, lost their own personal interests. And they chose

through funding professionals to put their own money up at risk for the benefit not just of themselves, but for the broader creditor constituents, whether that be their classes or the estates as a whole. And I truly believe after working with these creditors and attorneys that they all had a goal of enriching the estates as a whole.

In the case Bayou Group, 431 B.R. 549 (Bankr. S.D.N.Y. 2010), the court there looked at I believe it was a creditor application for substantive contribution, and it asked whether the efforts of those groups facilitated the successful negotiation and confirmation of the plan. And it said that efforts that were in favor of the successful negotiation and confirmation of a plan that led to a value-maximizing resolution benefitted the estates as a whole. And I think that all of the groups that I discussed before have made those contributions.

I think of them in three buckets. The first are negotiating the building blocks of this plan. When Mr. Koenig stood up, he said he didn't have a counterparty. I believe that we were part of that counterparty, so I am a big biased there. But --

THE COURT: (indiscernible).

MR. COLODNY: Exactly. Each of these groups advocated not just for their own self-interest, but on behalf of their broader constituency. And in doing so, they

had to give up key things for the benefit of all. For the custody group, it was 27-and-a-half percent of coins in kind, which is thirty to $40 million which went back to the estate. Those coins have gone up in value a significant amount since that settlement was structure and resulted in a massive benefit to all creditors of the estate. Custody holders, unlike everyone else, are getting back coins in kind. They had a very strong incentive to negotiate the settlement, but they could have gotten back a hundred percent of coins in kind. They chose to resolve that and to donate part of that recovery that they could have otherwise received to the estate.

We also avoided a very long and drawn-out second phase of that trial which we all know would have taken months, significantly delayed the resolution of these cases. And we would be sitting here today mired in litigation, whether it be the custody, the preferred shareholders, without a confirmed plan in front of Your Honor. That sacrifice I don't think can be overlooked. The Withhold group did the same thing.

You've heard a lot about the mediation. That mediation was not trying to go through -- without violating mediation privilege, it was not a walk in the park. We came in there drastically apart in terms of what was an acceptable solution and we were able to bridge that gap

through constructive dialogue in front of Judge Wiles. I truly believe that without the participation of direct creditor representatives, including Mr. Herrmann, Mr. Frishberg, Mr. Cruz, Mr. Tuganov, we would not have gotten to where we are today.

And at that mediation, all groups agreed to sign a plan support agreement. That plan support agreement was ultimately entered into by the Earn Group, Mr. Frishberg and Mr. Hermann and Mr. Dixon. And the plan support agreement, they all upheld their ends of the deal. They all stood by us. And when we needed them when the SEC came and gave us a curveball, they all helped us to move past that, to come to a consensual resolution that maximized value and got us out of bankruptcy.

I also want to touch on the class claim. Because there again, this is sacrifice the creditors made for the benefit of all.

If you look at Ms. Gallagher, she has an incredible story. In I think it was April '22, she went to Miami and met Mr. Mashinsky and asked him face-to-face, Mr. Mashinsky, I have my entire life savings with you; are my assets safe? He said absolutely. Created a case for fraud.

Ms. Gallagher was one of our class plaintiffs. Worked with us to develop a declaration, put herself without counsel, at risk of being deposed by the preferred equity

holders, and went through a lot to tell her story to show that. She also gave up that claim by not opting out of the class settlement in return for 105 percent of her claim. She could have gotten much, much more potentially. But she chose to be a part of the Earn Ad Hoc Group, to participate in that class claim settlement. And in doing so, that contribution, whether it be by Ms. Gallagher, by the Earn Ad Hoc Group, by Mr. Herrmann, who dismissed his litigation, that's going to allow millions of dollars to be sent out to creditors on the effective date. It's going to reduce the amount that had to be reserved not just for disputed amounts, but also to litigate all of those claims. That would not have been an easy task. We were looking at 70,000 proofs of claim all with distinct questions, all with distinct factual questions that would have been resolved.

We still have ADR procedures to resolve those in an efficient manner, but even ADR procedures cost a lot of money. And I believe that the sacrifice of the parties that have sat here today and are asking for reasonable compensation for the benefit of the whole and expediting distributions, reducing reserves, and reducing administrative expense, which were three things I was incredibly focused on, really prove a demonstrable benefit not just to the individual accountholders, but to the estate. And when I think about the class claim, folks that

were instrumental in getting to that settlement are Mr. Tuganov, Ms. Gallagher, the Earn Ad Hoc Group, Mr. Herrmann, and Mr. Frishberg, all who attended the mediation with the exception of Ms. Gallagher, and all who participated in the settlement or prosecution of that class claim.

The last item is whether those contributions were unique. And this is where I believe the United States Trustee said if you just left the Debtors and the Committee to it, they would have gotten to this result anyways. I don't believe that's the case. We represent all creditors. I believe that all creditors required direct creditor participation to buy into this claim and that the participation of the Earn Group and the individual creditors were instrumental to get that.

THE COURT: There was an earlier time in this case where, rightly or wrongly the Committee was challenged by many of the creditors.

MR. COLODNY: That's correct, Your Honor. We had to make a lot of difficult decisions in this case. And I think that by including these creditors, they now understand that and they recognize the position we were in. When we were here in December '22 talking about whether it's property, the point that I made that stuck out in my head was if it is your property, you can trace it, then you may get a bitcoin, but someone else is going to get nothing.

There's not enough to go around. And that was a sacrifice that our group had a lot of trouble coming to ground with. But ultimately it did it for the benefit of everybody. I think that a lot of these sacrifices by creditors and those that are standing here today are on the same vein.

So I don't believe that these are duplicative services. I believe that everybody here had a very unique contribution which led to this. And we would not be standing before you today with a plan that was approved by 98 percent with a toggle to get to a different plan if it was met with one objection. You know, everybody had to sacrifice, and they sacrificed for the benefit of the entire estate to get to a result which will hopefully result in very large distributions to creditors in the near future.

THE COURT: Thank you very much, Mr. Colodny.

MR. COLODNY: Thank you.

THE COURT: All right. Mr. Bruh?

MR. BRUH: Thank you, Your Honor. I'll approach this with some general comments initially and then addressing each of the groups that argued before Your Honor. And then if I can reserve a closing, because there will be more groups coming before Your Honor. And then I can just wrap my closing touching upon all those parties. Okay.

So as Your Honor stated, attorneys look to their client for payment. That's the general rule. Here the

Applicants are asking the Court to deviate from that rule. And the UST submits in its omnibus objection, the Applicants have failed to satisfy their burden and thus their request should be denied.

Every single one of the applicants engaged in activities and pursued paths in protecting his or her own interests or the interests of a particular group. Any benefit was incident or indirect to the estate. It is a high bar, and each applicant failed to exceed it.

Now, if the actions of the movant duplicated work by the estate-compensated professionals costs more than the benefit or are calculated primarily to benefit the client, the motion would not be granted. And that's In re Granite Partners, 213 B.R. 440, 446.

The provision is also not intended to be used in essence to reach a settlement with the party in the case for eventually coming along and agreeing to treatment under a plan. And I would note that that is a direct quote from your former colleague, Judge Drain, at a hearing I attended in the Vernon 4540 Realty bankruptcy from May 24th, 2022 in connection with a substantial contribution application by a creditor.

And reaching a settlement with the parties to come along and agree to treatment under a plan is the Debtor's playbook here. Counsel said it today. And we believe that's

not what the provision is for. And as Judge Drain as well.

And before I talk about the specific groups that made their arguments today, I do want to touch upon reasonableness.

So if the Court was to rule against us and make a finding that there has been substantial contribution by these applicants, which we contend there has not been, they have not met their burden. We further submit that the applications before Your Honor are not reasonable, certain of the requests are not allowed by law or fail to comply with the guidelines. It is our position that after the Court reviews those applications, you would agree with the United States Trustee that there should be significant reductions and/or outright denials based on reasonableness.

I want to touch upon a few things here. I think Your Honor hit the nail on the head when we were talking about the ad hoc groups. Each group is for a particular category of claim, not the whole. They have specific roles to protect the interests of their own members. That is why they are named such. Steering Group, Withhold, Borrowers, et cetera. We all know the names. We all have been part of the case from the beginning.

Now, if we look at an attorney-client relationship here, it's for the attorneys to represent their clients' interest. That is the members of a particular group -- here

the ad hoc members or individuals in the case of Mr. Tuganov or Mr. Dixon who we haven't heard from yet today.

To deviate from that relationship would be a violation of attorneys' duty to their clients and the attorney-client relationship. Any benefit to any other group must be incidental or indirect. Accordingly, the substantial contribution claim must fail.

And I think it's important to note and look at what the UCC states in its papers at ECF 4027 and what it does not state with respect to the applications.

In paragraph three in referring to the ad hoc groups, the Committee states that they all negotiated separate settlements with the Debtors and the Committee that were widely accepted by their classes and they were integral to the confirmation of the plan. But that is not what substantial contribution provision is intended for; to get the votes for a client.

And in paragraph two of the Debtor's objection at ECF 4025, they make a similar statement about the settlements achieved for the treatment of certain classes. Also their word choice, "certain classes", is telling. As well as the absence of the most important word, "all" in front of classes.

Now, settlement negotiations do not give rise to substantial contribution claims. We cite the case of

Columbia Gas Systems, 224 B.R. 540. It's a Delaware case. We think it's instructive for Your Honor today. Obviously it's not binding on Your Honor. It's cited on Page 31 of 69 of our objection.

Second, we would point out we don't dispute that the creditors were vocal. We have a hundred appearing today. We've had hundreds more. The 341 was a thousand people I believe. They were involved in this case. And at times, Your Honor, it bordered on blood lust for the Debtors. I was here virtually every hearing. But those creditors would have done what they did regardless.

Now, turning to the specific groups. The first one before Your Honor was the Custody group. I'm just going to touch upon some of the issues that we raise in our objection before Your Honor just to summarize it, but we stand on our papers with respect to our objections today.

It effectively bowed out of these cases after it reached a settlement with the Debtors concerning its members. What it did was settle now, get paid now. Any percentage of the claim, it was 27.5 I think it is, that they left on the table was in exchange for various releases of all claims and causes of actions with respect to the holders of the Custody account. That's in paragraph 20 of the application at ECF 3660. That is what those members bargained for. Thus, any nominal benefit that flowed to the

estate from that was incidental and that application should be denied.

And then with respect to reasonableness, we set out the issues there, so we'll rest on our papers with respect to that.

Moving along, we have the Withhold group. It does not dispute that the services that are performed were for its members and the Withhold accountholders, not the overall creditor body. That's in paragraph 29 of its application at 3663. The applicant hangs its hat on the Court's statement at the December 7th hearing, but that was not a finding in any way. The Court's words were to the effect that if the Court resolve issues for some groups, it may be well rules that would suggest the outcome as to everybody else. We believe that that statement is in line with In re US Lines Incorporated, 103 B.R. 427. It's a Southern District case where services calculated primarily to benefit the client do not justify an award even if they also confirm indirect benefit on the estate. That's cited on Page 29 of 69 of our objection.

And then again with reasonableness, we will rest on our papers. We identified those issues.

Turning to the ad hoc group. Again, the Earn Ad Hoc -- it's the Earn, excuse me, the Earn Ad Hoc Group. Again, the Earn Group's purported benefit to the estate was

nothing more than a settlement reached for the benefit of its members and for plan support which is now the substantial contribution provisions intended for. The five percent increase is for 30,000 claimants. That is those claimants who have non-contract claims against the Debtors, no one else. That's paragraph 17 at ECF 3654 of their application.

And what we see as troubling is the term sheet that the group entered into explicitly states that the plan will provide for payment of certain of these applications. And we raise that issue at Page 39 of 69 of our objection.

I think all of this showcases the cascading problem which was identified in the Alumni Hotel Corp. case that was cited in our papers, at 203 B.R. 624. It's a Michigan case, but it's instructive. It says successful reorganizations require consensual activity. And as one applicant's fees are approved, others might argue they also made a substantial contribution. And that's at page 31 of 69 of our objection, and that's what's happening here. And the fact of the matter is encouraging -- the fact of the matter, excuse me, is encouraging cop and mice participating in settlement negotiations and proposing settlement terms are the professional obligation of a creditor's counsel. Again, the Alumni case.

Now, with respect to board appointments that the

Earn group talked about, they are for Earn accountholders. Their interests, not others. And while I rest on reasonableness with respect to fees and I do hear, I do want to point out that the Earn Ad Hoc Group has an expense for monitoring the docket and Twitter for $6,700 and change. And that expense, who it was was disclosed to us, but to no one else. And we find it extremely troubling and it's shocking and we believe a blatant money grab in this case. I mean, I am not at liberty -- I won't say who because it wasn't filed on the docket. But we were provided that information. And I just wanted to put that before the Court.

And all of this is just a microcosm of all of these ad hoc applications we well as the firms representing individuals, which I'll discuss in a minute. In a minute I'll talk about Mr. Tuganov. It's a grab at the coins. Professionals made a lot of money here. We have heard that from some of the pro se. And it seems that these applicants want their piece, too.

Now turning to Mr. Tuganov. It was pointed out there was a mistake in our papers, and we apologize. We stand by -- the chart had the right number. I didn't want to file anything with the Court. I thought I would just bring it up to the court here. It didn't affect argument in any way.

In Paragraph 7 of the UCC's statement, they state that Mr. Tuganov was active in these cases. Being active does not entitle you to a claim of substantial contribution. Inherent in the term substantial is the concept that the benefit received by the estate must be more than incidental when arising from the activities of the Applicant has pursued in protecting his or her own interests. And that's Dana Corp. case at 390 B.R. 108.

It's undisputed that Mr. Tuganov -- I'll talk about Mr. Dixon and I'm sure he will as well -- and the other applicants were active in these cases. They acted for their own self-interest.

Now, for example, Mr. Tuganov participated in mediation. He did that at his own request. There was a lot of talk about the Ponzi scheme investigation. What came out of that was Mr. Tuganov's counsel's time spent, about $273,000. It doesn't include the Debtors, the Committee, any other court-retained professionals.

THE COURT: Just give me a minute.

I'm sorry, go ahead, Mr. Bruh.

MR. BRUH: Thank you, Your Honor. I was just discussing -- and I'll start again. We were talking about the Ponzi scheme investigation. We saw in Mr. Tuganov's counsel's recourse that $273,000 was spent. That was approximately $1.46 million application for one individual

in this case, mind you. And when reviewing the examiner's 689-page report, the word Ponzi appears seven times. That was -- it's nothing more than a nothingburger in this case. There was no benefit to the estate. But counsel wants to be paid for those services. That's just a burden on this estate.

Overall we believe that Mr. Tuganov's actions were a mushrooming legal expense for the estate and so are his expenses which include a meal for his attorney at $380.

We believe that when parties knew they were filing applications as such with Mr. Tuganov's counsel, they should have complied with the rules of the Court and broke down their applications as the professionals have done for each and every application before Your Honor.

We will say that there is these post-confirmation fees of $75,000 (indiscernible) to get to confirmation, and now people want to be paid more money. There's time entries for defending, for filing a reply to our objection. And that's not compensable time, Your Honor. When will the bleeding end? With respect to other issues, unreasonableness, we'll rest on our papers.

And I just would like to reserve time to respond to the other applicants in a general closing.

THE COURT: Okay. Thank you very much.

MR. BRUH: Thank you, Judge.

THE COURT: All right. Let's take a ten-minute recess and then we'll resume. Okay?

(Recess)

THE COURT: Please be seated. All right. Where are we picking up, Mr. Koenig?

MR. KOENIG: Your Honor, I don't know if you had intended to hear from the applicants again or whether we're continuing on.

THE COURT: No. We're continuing on.

MR. KOENIG: Okay. So if we're continuing on, it is BNK To the Future's motion.

THE COURT: Okay.

MR. KOENIG: We're on agenda number nine.

THE COURT: Nine. Okay. Who is going to argue on BNK To The Future?

MR. TARLOW: Good morning, Your Honor. David Tarlow from Ervin Cohen & Jessup on behalf of BNK To The Future. And I am here with my associate, Chase Stone.

And I just want to start off this way. (indiscernible).

THE COURT: You're cutting in and out. So I'm not sure what the issue is for you, but...

MR. TARLOW: Okay. Is that better?

THE COURT: Yes, that's better.

MR. TARLOW: Okay. So as I know that

(indiscernible).

THE COURT: It's still not working.

MR. TARLOW: Still not working?

THE COURT: No. What is the microphone that you're using? Is it on your computer or...

MR. TARLOW: Yeah, it is on my (indiscernible).

THE COURT: Let me suggest maybe sit down in front of it. It's okay. Because you're starting to come through clearly, and then it's breaking up.

MR. TARLOW: Okay.

THE COURT: Go ahead.

MR. TARLOW: Can you hear me now?

THE COURT: For now.

MR. TARLOW: Okay. So, Your Honor, BNK Of The Future and Simon Dixon are requesting (indiscernible) in the amount of (indiscernible).

THE COURT: Mr. Tarlow, this is just not working. You're cutting in and out. Where are you located?

MR. TARLOW: I'm located in Beverly Hills. I can run on into Mr. Stone's office and see if he's any better.

THE COURT: Why don't you try that? We'll come back to you. Okay? But this is not -- I want to give you a chance to argue. But when you keep breaking up like that, I can't follow you. All right. So I'll call the next in line, and then we'll come back to you immediately

thereafter. Okay. So the next is Zachary Wildes's motion for substantial contribution. Is anybody appearing for Zachary Wildes? Mr. Wildes?

CLERK: I don't see (indiscernible), Judge.

THE COURT: All right. The next I have is Rebecca Gallagher.

MS. GALLAGHER: Hello, Your Honor. Can you hear me?

THE COURT: Yes, I can. Go ahead.

MS. GALLAGHER: Yes. Hello. Rebecca Gallagher, pro se. I am placing my substantial contribution claim because of being the lead plaintiff, a bellwether selected and an admin in the Earn telegraph group.

As the debtors said, there is not actually a definition in the Bankruptcy Code for the term substantial contribution. Therefore, it is to your discretion to decide how, in this case, you will rule on the matter. And as Mr. Koenig has pointed out, this is a very novel case, very unusual, and it's not going to be the same as most typical bankruptcies in how you rule on this matter.

However, as we've said, in determining the factors that go into this, whether the services benefited a creditor, the estate itself or all interested parties is taken into account, and also whether the services resulted in an actual significant and demonstrable benefit to the

estate is taken into account. And so I would argue that in my case, by lending my story and taking all the time it took to forge the declaration and to participate in the class claim, resulted in benefits to the entire estate, in the savings of costs and lengthy litigation that Mr. Koenig laid out for us earlier, and that all interested parties benefited from this.

It also had a demonstrable benefit because at that time, there were 30,000 claims, proof of claims that had been filed on the docket that totaled many millions of dollars. So it resulted in a saving of all of that litigation and length of time.

I'd also like to say in response to the U.S. trustee, who said that my actions could have been performed without the interjection of an applicant, I would like to say that you can't have a class claim without lead plaintiffs. So the role that myself and my two other fellow lead plaintiffs took could not have been performed by somebody else. It needed a creditor to step up and take that role.

Also, I look at Mr. Tuganov, who had legal representation. I worked without that legal representation as I could no longer afford that because of the state that this bankruptcy has left my finances in. So I feel that my time and effort spent preparing my declaration and working

with Mr. Colodny and the people at White & Case is equally as valuable. I see that Mr. Tuganov is charging $255,706 just for class claim matters that took 220 hours. I did all this work by myself as a pro se, and so I would ask, why is his time valuable and to be compensated like that, but my 20 ETH is to be disregarded. I feel that I put just as much effort into this.

When I filed my proof of claim, I had 17 actions against the debtors for various fraudulent behaviors. And as Mr. Colodny pointed out, I had a direct proof of fraud against Mr. Mashinsky himself. But I laid all that down to be able to represent everybody and to speed this process up and to get the recovery for all creditors outside of the custody group of the 105 percent. So I would ask that you would consider my 20 ETH, which, in my view, is very minimal compared to all the expenses that have been and fees against the estate. It's not very much, but for me, it would be very significant because I had such a large holding of ETH on the platform, which I have now lost.

I'd also like to make a correction for the record that in the Exhibit A of the U.S. trustee's objection, she states that I make a claim for $437,000. Well, that's not correct. That's actually the money that I have lost to the petition date pricing that I've had to walk away from. I'm actually only asking for 20 ETH, not $437,000. And so I

would respectfully ask Your Honor to consider this, and thank you very much for allowing me to speak.

THE COURT: Thank you very much, Ms. Gallagher. All right. So let's go back. Mr. Tarlow, are you able to pick up with your argument?

MR. TARLOW: Yes, I am, Your Honor. Thank you.

THE COURT: Okay.

MR. TARLOW: And I hope that this is a better feed. So most of what we'd like to put in front of the court obviously is in front of the court in the papers, and I'm going to try not to repeat what's in the papers, other than to highlight a couple of things.

To start off, we are seeking substantial contribution amount of $599,616.71. And that is broken up by three different entities, one of which is my law firm, which is seeking $301,000 in legal fees as well as costs to include $15,642.01, legal fees from Brown Rudnick in the amount of $222,688.50 and costs of $614.20 and financial services fees in the amount of $59,034 to DBK Financial Services and costs $368.

Mr. Dixon and BNK To The Future have provided substantial contribution to the estate in this matter. They did so in a lot of different ways. But I'm just going to focus on a couple of things. First of all, Mr. Dixon was never part of any of the ad hoc committees. Mr. Dixon, on

his own and on behalf of his company, BN To The Future, they took the risk and the expense of retaining outside counsel and financial services in order to educate both himself and the creditors in this case as to the plan going forward, to highlight the good parts of the plan and to get consensus from a wide variety of creditors in support of the plan and the way that he did that, and I think Your Honor has seen his videos, or at least some of his videos, lots of videos posted onto YouTube.

He's not seeking reimbursement for any of his time or effort doing that, but in order to do so, he needed to educate himself on this entire process, to further educate himself on the plan and what would benefit the creditors. And he was constantly posting hour- to two-hour-long videos on YouTube and on Twitter to educate the creditors. And also some of the attorneys would watch these videos and get educated as well.

Mr. Dixon was also part of the plan support agreement, retained my firm, ECJ, and we immediately jumped in and worked on the negotiations of that plan support agreement. The agreement took several legal hours in order to negotiate it back and forth with both the debtor and the UCC and ultimately came up with a plan support agreement that Mr. Dixon agreed to and Mr. Dixon complied with his obligations under that plan support agreement. He supported

the plan (indiscernible). He put that out to creditors, and numerous creditors have actually weighed in on this. And we submitted that as part of Mr. Dixon's declaration showing that they used the materials that he provided to them in order to ultimately support the plan.

We also had a situation in December where both the debtor and the UCC came to Mr. Dixon and asked him to submit information to the court and to appear at the trial in December and to explain certain things, specifically, why re-solicitation should not go forward, such as the fact that it's a (indiscernible) a month burn rate if it were to go forward. And he also brought a lot of value to the estate by his idea that the estate should not be selling the cryptocurrency, but should be keeping it within the estate and its equity, because that would be much more valuable to the estate than would be selling it for pennies on the dollar. And because of that, the estate has held onto that cryptocurrency, while the cryptocurrency has increased in value and brought probably over $1.5 billion in value to all of the creditors. This is substantial contribution. This is what a motion like this is meant to be.

As far as the argument that Mr. Dixon and BNK To The Future were acting purely in their own self-interests, that simply is not the case. Mr. Dixon and BNK To The Future took on roles of a plan consultant to the debtor and

a board observer solely to represent the interests of the creditors, and not just his self-interest. I mean, obviously he is a creditor, so he is interested. But it wasn't solely self-interest at all. It was on behalf of all of the creditors to look to make sure that they were all getting a fair deal here.

Simon was not the member of any ad hoc committees, and any argument that the ad hoc committees, by definition, are self-interested simply doesn't apply to him. And then we've got clearly the 160 hours or so of content that he put on the Internet, which shows that what he was trying to do, he wasn't doing that for himself. He was doing that for the benefit of the creditors.

So all in all, there was other things that he did as well, such as when he retained Brown Rudnick. Brown Rudnick did work that ultimately led to the structure of the plan initially. Those were costs that were borne by Mr. Dixon and BNK To The Future, and it helped Mr. Dixon to articulate the plan to the unsecured creditors.

So I think that the evidence that you have before you, Your Honor, really does indicate that what Mr. Dixon and BNK To The Future did here created substantial value to the estate and that he should be awarded those costs. And I just want to note that those costs are but a fraction of what he actually had incurred for both legal fees and

financial fees (indiscernible) only 50 percent of what Brown Rudnick had billed on this and a substantial reduction of ECJ's fees. So that would conclude --

THE COURT: All right. Anything else?

MR. TARLOW: No. I've got nothing else, Your Honor.

THE COURT: All right. Thank you, Mr. Tarlow. All right. So I'll again give -- is Zachary Wildes on appearing by Zoom? No? All right. We've already heard from Rebecca Gallagher. Next is the pending withdrawal ad hoc group motion. Is anybody appearing for them? It's Number 12 on the agenda.

MS. WOODS: Yes, Your Honor. This is Adrienne Woods, appearing for the pending withdrawal ad hoc group. Your Honor, I'm only here today because I only just managed to speak with my clients shortly before the hearing, and upon discussion, we've agreed that we will withdraw our application.

THE COURT: All right. Thank you very much, Ms. Woods.

MS. WOODS: Thank you, Your Honor.

THE COURT: Okay. Let me make a note. All right. Mr. Bruh?

MR. BRUH: Thank you, Your Honor. Again, Mark Bruh, for the United States trustee. I do want to backtrack

for a minute because I overlooked talking about a couple of the individuals. So I'll lump them together now, and we could resolve them all. So with respect to the individual application, the United States trustee clearly identifies the issues with those requests in our objection.

In addition to those outlined in our objection, I would reiterate that Mr. Hermann and Mr. Frishberg participated in the mediation at their own request. We don't believe there's any basis for Ms. Gallagher's request of 20 Ethereum to be paid to her. We do acknowledge and apologize to the estate for pulling the wrong number there. I wanted to put that on the record. And then with respect to Mr. Wildes, albeit he didn't say anything, he does have an application before Your Honor. I think there were two components. One seeks reimbursement for a financial services firm, which is non-compensable, which is not allowed. And the law firm's services are all personal in nature, as they were itemized in that one little invoice. And there was no showing that it benefited the creditor body or the estate as a whole. And then I'll turn to Mr. Dixon and then my closing remarks, if that's fine with the court.

THE COURT: Yeah. Go ahead.

MR. BRUH: Thank you. So, with respect to Mr. Dixon and BNK To The Future, the docket reflects that he's done very little in these cases. To the extent that he was

participating on Twitter, YouTube, social media, et cetera, all those activities increased his brand, promoted his business, and he had a significant claim in these cases, and he's trying to get a return on that claim.

Mr. Dixon's application talks about how he was instrumental in the Fahrenheit and BRIC bids. Well, neither worked out as they were intended to in this case. Mr. Dixon's reply -- I'll move on there. His time records, I don't know if they were submitted. There have been some filings after and beforehand, but they're supposed to be kept contemporaneously. When we filed our objection, we had not seen any time records in connection with the application, and we have not reviewed any to date, Your Honor. So we would stand reasonable that he hasn't passed that test. Also, he's seeking compensation for a financial firm, In re Granite Partners. Those services are not compensable, Your Honor. That relates to DBK Financial Services, and I think that's approximately $50,000.

Mr. Dixon's application does talk about discussions with the debtors in the UCC. Well, what is absent in these cases, and most telling are any declarations in support of these applications. Other than Mr. Dixon's self-serving affidavit, there's no declarations from anyone in support of these applications today. And again, with respect to reasonableness, I'll rest on our papers.

So, in closing, Your Honor, debtors have spoken glowingly about certain of the creditor groups, but that conflicts with Paragraph 43 of their objection at ECF 4025, wherein they state that the ultimate success of these Chapter 11 cases is overwhelmingly due to the work of estate professionals who have a fiduciary duty to maximize the value of the debtors' estate. It sounds to me with words like that there's no room for a substantial contribution claim.

I'll also note that no applicant has uncovered assets for any creditors. It's not a 100 percent plan. We've highlighted, and we believe there's duplication of services, and we set forth that in our objection. I haven't heard anything, if there is duplication, if any of the retained professionals would waive fees so that these applicants can get paid today. An applicant cannot recover for case administration, reviewing documents, attending hearings, consulting with clients and these applications are replete with those entries.

These cases had a lot of moving parts, but that's why the United States trustee appointed a diverse committee to handle those issues for the benefit of all creditors. And with respect to the class claim action, we've heard a lot about that. That's a name on a piece of paper. And then let the committee go and do their work. But based upon

the representations by Mr. Tuganov's counsel today, it appears that his work significantly overlapped with the work of the committee in connection with the class claim action. I haven't gone through it line by line. His time records were a little difficult to read, and they weren't broken down into categories which I'm usually accustomed to on my end reviewing applications, as Your Honor well knows, and also the class claim, that's a settlement choice made by creditors.

So, in conclusion, the United States trustee does not dispute that various of these professionals and individuals participated in these cases. However, that does not give rise to the extraordinary actions that you need to overcome to have a substantial contribution in these cases. They have not shown --

THE COURT: Well, would you agree that the -- let's put aside what the role of the committee was, what the role of other counsel were with respect to the class claim and the settlement. But the class claim benefited the entire creditor body and not just a subset of creditors. Do you agree with that?

MR. BRUH: It appears so, yes, Your Honor. But then we look at who did the work in connection with it.

THE COURT: And so, when the motion to permit a class claim was filed, the preferred holders objected to the

committee counsel being the one -- argued that the committee could not be the plaintiff. There had to be individual plaintiffs. So there was an effort, and three specific plaintiffs were identified. You agree with that?

MR. BRUH: Yes.

THE COURT: All right, and so with respect to the class claim, that's why I'm not necessarily in sync with you as to whether any professionals other than the committee's professionals made a substantial contribution to the class claims and resolution of the class claims. Obviously it was settled --

MR. BRUH: Right.

THE COURT: -- successfully done, and certainly appreciate that. That certainly simplified this case considerably. The class claims were important because of the ruling that I had made that the only contractual claims were against LLC, but specifically said that there could be non-contract claims, amongst others. That was sort of the genesis then of whether was the court suddenly going to be faced with hundreds of thousands potentially of separate claims. It was pursued as the class claim. So that -- I start with the premise that the class claim benefited the -- satisfied, ticked off the check. It benefited the entire creditor body, not just specific plaintiffs, specific creditors. You agree with that?

MR. BRUH: I mean, it seems to be based upon the result and how it came about, yes, Your Honor. But we do have issues concerning the reasonableness of the --

THE COURT: Well, let's put aside the question. Yes, and I do scrutinize the reasonableness. But so is your objection then about the reasonableness rather than the fact that the work was done and for which they're seeking compensation? I recognize the reasonableness is going to have to be satisfied.

MR. BRUH: Well, I think that once a name is put on the paper, and then the committee would do the work behind the scenes in support of the class claim to streamline the process to the benefit of all, the whole creditor body and the estate to which it was appointed to do so. So that's where we stand with respect to that.

THE COURT: All right. Anything else you want to add, Mr. Bruh?

MR. BRUH: On that issue, no, Your Honor.

THE COURT: No, go ahead.

MR. BRUH: So I'll pick up that we believe that the applicants have not shown by a preponderance of the evidence that they provided a substantial benefit to the estate and mere conclusory statements are not enough. So this case has been funded by a treasure chest of coins which has doubled since the petition date. And that's great for

all creditors because now there -- there were a lot of people are very nervous and frustrated and upset at the beginning. That's just using --

THE COURT: Well, there's a lot of people who are still --

MR. BRUH: I know, but in a bankruptcy sense, with the numbers coming out we've seen far worse returns to creditors in cases. We all can attest to that. And I'm just using bitcoin and Ethereum as an example for the doubling. I haven't analyzed every coin that was (indiscernible) here. But we're near the finish line and not everyone gets to put their hands in the treasure chest. It's our position and we believe that these applications as we set forth today and in our objection are saddling hundreds of thousands of creditors with additional administrative expenses that they did not ask for.

Now, cost of the applications in relation to retained professionals is not relevant to justification as to why someone should be allowed to be paid in this case. A finding of substantial contribution is reserved for the rare and extraordinary circumstances where creditors' involvement truly enhances the administration of the estate. Words matter and those words are precise and extremely limiting. The movants have not demonstrated their burden and thus the application should be denied. I would put on the record it

was raised that we have no financial stake. When I talk in the colloquial --

THE COURT: I've said this many times, I mean, I value all the work the U.S. trustee does, but in particular with respect to scrutinizing all fee applications, whether it's in the regular course or substantial contribution. So you don't have to defend the role of the U.S. trustee in carrying out this important --

MR. BRUH: Thank you, Your Honor. And I would just say thank you for allowing me to get this all out on the record. There was a lot to unpack here and to the extent I missed an application or an issue, I rest on the objections in our papers. Thank you again.

THE COURT: Thank you, Mr. Bruh. All right. Before I hear from the debtors' counsel and committee's counsel again, with respect to some of the second group of applications that I've heard, there were some additional objections filed by pro ses and things. Is there anybody -- so this really picks up with the objections, starting with Herrmann, Frishberg, Tuganov, BNK To The future, Wildes and Gallagher. Is there anybody else who wishes to be heard objecting to those applications?

MR. LATONA: Good afternoon, Your Honor. For the record, Dan Latona, of Kirkland & Ellis, on behalf of the debtors. The debtors did file an objection to certain of

the substantial contribution applications. That's at Docket Number 4025.

To point out, just to disagree a little bit with Mr. Bruh while, he did say that estate professionals have overwhelmingly moved these cases forward, it's not true that they have exclusively moved these cases forward. As both Mr. Koenig and Mr. Colodny articulated earlier in the hearing, creditor participation in these Chapter 11 cases has been robust, and in certain instances, that's had a positive outcome on these cases. For example, the class claim settlement, the retail borrower settlement were both integral pieces of the plan that helped move these cases forward.

But, Your Honor, the Bankruptcy Code does require the fees and expenses be actual and necessary under Section 503(b)(3) and under 503(b)(4) for professional services incurred in making a substantial contribution. And certain of the substantial contribution applications do not provide sufficient detail for the debtors to be able to determine whether the fees incurred were actual and necessary in advancing and administering these Chapter 11 cases. For example, the Wildes application is a one-paragraph letter that was filed on the docket with two invoices that do not provide detail to help the debtors or the committee determine whether those expenses were actual and necessary.

Similarly, Ms. Gallagher's application doesn't demonstrate that 20 ETH is the actual and necessary compensable amount for her time. That 20 ETH would be approximately $52,000 in today's dollars.

THE COURT: Let me just stop on that. Over the years, I've had multiple class action adversary proceedings brought in this court, in WARN Act cases, for example, and I think they've all settled. One may have been dismissed, but the rest all settled. When counsel in any of those cases were seeking -- connection with the approval of the settlement was seeking approval of the settlement, they would include in it if they were looking for some return to the named plaintiffs. It would be included then and evaluated as part of the settlement. That didn't happen here.

So Ms. Gallagher has made an application for an award as a named plaintiff in the class claim, which did settle. But the time when it should have been brought, in, my view, was as part of the settlement. If there was going -- I separate that out. I asked some questions earlier today whether her expenses, for example, they're part of another separate application that's been made, separate that out from an award for her role as the class plaintiff. Go ahead.

MR. LATONA: Yeah, Your Honor, and what I would

say is we appreciate Ms. Gallagher's participation in these cases. What we're trying to determine is whether that 20 ETH is an actual and reasonable cost incurred, and we'd be happy to discuss with Ms. Gallagher what the actual amount would be in this case would it be appropriate, and I think the committee --

THE COURT: I'm not taking any additional filings with respect to these applications. I've made that clear.

MR. LATONA: Of course. Lastly, Your Honor, I'll finish up with Mr. Dixon and BNK To The Future. Mr. Dixon has been prominent in these Chapter 11 cases, both in the courtroom and on social media. He also participated earlier in the cases as a potential bidder in the debtors' sale process. He did also file a number of letters on the docket in support of the plan, and we appreciate Mr. Dixon's role in this.

As part of the plan support agreement, the debtors and the committee both agreed to support any application by Mr. Dixon and BNK To The Future for fees and expenses incurred as part of negotiating that plan support agreement. And it's not clear, nor does the application distinguish what fees were actually incurred as part of negotiating the plan support agreement. And so I understand Your Honor is not going to take additional filings in these cases. But to the extent Mr. Dixon would like to distinguish which of

those fees were incurred as part of the plan support agreement, the debtors would be supportive.

With that, Your Honor, I will turn over the lectern, either physically or virtually to anybody else who would like to speak.

THE COURT: All right. Thank you. Does anybody else wish to be heard at this point?

CLERK: Judge, Jason Amerson is on.

THE COURT: Yeah. Go ahead, Mr. Amerson. Just one moment.

MR. AMERSON: Yes, Your Honor.

THE COURT: So you filed an objection to the BNK To The Future substantial contribution application. Go ahead, Mr. Amerson.

MR. AMERSON: That's correct, Your Honor. Is the court able to re-enable my video? I had it working earlier, but it's not allowing --

THE COURT: Your video is not working. I can hear you loud and clear.

MR. AMERSON: Okay. There -- I think --

THE COURT: Oh, there you are. Now I can see it.

MR. AMERSON: Yeah. Okay. I'm not sure if I'm washed out or not.

THE COURT: No, you're coming through. The picture is very clear.

MR. AMERSON: First of all, Judge, I would like to say you've been very patient with all the comments today, and I have noticed over the last year and a half, you've been very patient with pro se creditors, allowing them to speak their mind and get their thoughts out before the court. So that's very appreciated. It hasn't gone unnoticed. In order to respect the court's time today, I did prepare my comments in advance, which I have actually added to based on what I've heard today. So if you'll indulge me, I think I can get this out in about 12 minutes. I'll even set a timer to try to make sure I keep on that timeframe.

THE COURT: Go ahead.

MR. AMERSON: Okay. So, first off, I do not agree -- and this initial comment is based on what I heard today. So let me preface that. I do not agree with the logic of a number of the arguments presented here today that suggest the court should interpret any creditor's agreement not to object further or continue to take an adversarial position against the debtors' plan should therefore qualify as a substantial contribution.

Furthermore, the assertion that the appointment of a board of observers is a benefit to all creditors is fatally flawed. These appointments are a net zero benefit to all of the convenience class creditors. For the

creditors who obtain equity in the NewCo, the benefit of the board of observers has yet to be determined as a true benefit. I would argue the pursuit of these appointments might very well have been motivated solely to support a future substantial contribution claim.

The debtor never designated any individual to officially represent the creditors and their legal representations' assertion that those who submitted substantial contribution claims somehow swayed nearly 600,000 creditors to overwhelmingly approve the plan is pure conjecture. This would suggest that they had enormous reach and influence that they exerted on creditors to sway them in their decision-making. Educating and informing creditors was the responsibility of the Celsius UCC, who held numerous town halls specifically with Celsius creditors, along with multiple communications through their Twitter/X social media account, not to mention emails sent directly from to the creditors to keep them informed on the bankruptcy process.

The argument that overall amounts being requested by the claimants in relation to other fees already billed to the estate by professionals is immaterial and not supported by the Bankruptcy Code. This was not the responsibility of a handful of creditors to serve, and serves as no justification to further dip into creditors' estate funds once more, thus reducing funds available to the rest of the

creditors.

The court is aware that the U.S. trustee also submitted a well-crafted objection to several of the substantial claim contributions by various parties, not surprisingly made up of mostly creditors. It is commonly assumed by the courts that any creditor coming before the court is doing so primarily as a self-interested party. I am not here today to discuss those other individuals. I am here specifically to object to one individual based on his unique relationship with the debtor. Just one individual, a single creditor who over the past year and a half has been highly controversial figure in this bankruptcy process.

I would like to read from a quote from the U.S. trustee's own objection to Mr. Dixon's application: "At best, Mr. Dixon's alleged work is duplicative of these efforts and, at worst, his work may have derailed the work of the committee and the debtors from other successful plans."

Now, I would assume the U.S. trustee based their objection to Mr. Dixon's substantial claim contribution for nearly $600,000 in reimbursement solely on the facts available in this case. My objection, like the trustee's, is also based on similar arguments, but I'd like to provide some additional context and historical perspective that the trustee did not and could not provide. I'd like to state

upfront that my objection is firmly aligned with the strict requirements as outlined in 11 USC Section 503 of the Bankruptcy Code governing any allowance or administrative expenses.

But there's more to the story than just a simple reimbursement. First, you need to know the context by which Mr. Dixon has come before you today and the Celsius estate with his hand out. (indiscernible), Mr. Dixon first partnered with the former CEO of Celsius Network, Alex Mashinsky, to help promote and encourage nearly 1,000 investors to invest their funds in the Celsius Series A equity round. I only mention this because Mr. Dixon often represented himself solely as an unsuspecting creditor who was financially damaged and victimized. There is much more to it.

The reality is Mr. Dixon helped to bring in millions of dollars of investment funds into the Celsius Network through his partnership with the company, funds totaling nearly $170 million at their peak and later declared worthless by this court, thereby becoming a total loss to his investors. As near as I can tell, there has never been an admission nor an apology by Mr. Dixon to his investors that he ushered into the Celsius Network starting in January of 2022.

Now at this time, I would like to remind Your

Honor that Mr. Dixon is not a licensed financial advisor. Mr. Dixon heavily relied on social media, mainly YouTube, to post videos in the first half of 2022, singing the praises of investing in Celsius, which likely gave untold retail investors confidence to utilize Celsius Network as a crypto Earn and loan platform. Celsius appeared to appreciate Mr. Dixon's efforts on this front, so much so that they later offered Mr. Dixon a board seat on the Celsius Network board of directors, likely a consolation prize for all his hard work bringing in millions of dollars in the Series A equity round.

By the way, Mr. Dixon surprisingly declined that offer, thereby passing up a golden opportunity to become a board member and have real influence on the direction of the company, and after all those Celsius promotion videos I mentioned on YouTube, Mr. Dixon has since taken them all down so I cannot directly cite them as evidence in my objection today.

Just months before Celsius Network filed for bankruptcy in the Southern District of New York, Mr. Dixon was making unsolicited offers to the CEO of Celsius in an attempt to get Celsius to purchase his company for a staggering $500 million, which was later rejected, a figure apparently not supported at all by the PowerPoint slide deck that Mr. Dixon presented as justification for the exorbitant

figure.

Despite the assumption by many that Celsius Network was a cash flush company, a serious downturn in crypto markets, exacerbated by unexpected events, commonly referred to as black swan events due to their rarity, combined with some ill-advised decision-making by Celsius executives, made for the perfect storm of events necessitating the filing of Chapter 11 bankruptcy protection.

At the time, Mr. Dixon had around $10 million on the platform, some he claimed to be his personal funds and some he claimed belonged to his company. He was adamant that none of the funds under his name or that of his company, BNK To The Future, which is not a bank, belonged to his customers, a claim that many have come to doubt, especially taking into account the nature of Mr. Dixon's company, whereby he solicits monies from retail investors with the expectation that he will find suitable investments in order to provide them with a desirable return.

Mr. Dixon's business is not publicly traded and incorporated out of the Cayman Islands. Just days after the Celsius Network withdrawal pause on or about June 12, 2022, Mr. Dixon was already taking a clear position in his Twitter social media posts that seemed geared towards undermining and challenging the decision-making at Celsius.

Unfortunately, Mr. Dixon was in the same boat as all the other creditors. Had he only not passed up that golden opportunity to serve on the Celsius board of directors. One can only speculate, but it seems likely he never accepted the position because as an insider he would be prohibited from soliciting Celsius to purchase his company.

In the latter half of 2022, well into our bankruptcy, Mr. Dixon throttled up his discontent against Celsius Network on social media, seemingly in an effort to beat down any positive perception that the company, Celsius Network, had desirable assets and could successfully emerge from bankruptcy (indiscernible), a strong post-bankruptcy entity being the desired outcome of most, if not all, companies that enter into Chapter 11 bankruptcy protection.

Creditors and competitors alike took notice as Mr. Dixon took to the crypto social media talk show circuit, appearing before anyone who would listen. I, like many other creditors, did not understand his behavior at the time because this seemingly only served to devalue the Celsius assets and decrease our odds that a well-funded bidder would come along and essentially buy us out and possibly make us whole.

To my surprise, it was disclosed in early 2023 that Mr. Dixon had quietly been engaging in the bidding

process, vying for Celsius Network assets, a fact in direct conflict with his earlier statements to the contrary. After the submission of his failed bid on Celsius assets in late 2022, Mr. Dixon again dialed up the rhetoric against Celsius enough that the debtor and the Celsius UCC were taking notice. It was apparent to me that measures were being taken to quell Mr. Dixon's dissent.

Now, throughout this bankruptcy process, we have had two primary powerhouses, powerhouse law firms working on our behalf in this bankruptcy, White & Case and Kirkland & Ellis, both well-known in the industry to be amongst the top professionals when it comes to bankruptcy. And I'm complimenting everybody up there, so (indiscernible) I just went off script. Let me get back on.

Its highly professional expert lawyers don't have the -- if the highly professional expert lawyers don't have the answers to a problem, they are empowered to hire the appropriate resources and experts to keep the process moving forward for the debtor. I'd like to point out that at no time did they enter into -- that either firm enter into a financial agreement with Mr. Dixon to retain his services or counsel in guiding the debtor through the bankruptcy process.

Despite not being contracted in any way, Mr. Dixon found a way to continually insert himself into the

conversation ahead of other creditors. Curiously, Mr. Dixon's filing request for nearly $600,000 in expenses reimbursement, his participation in your courtroom has been very minimal. Only after this application was submitted did he come before you in an effort to tout his experience and knowledge in the field of bitcoin and crypto, arguably much too late to make a meaningful difference.

Almost done, Your Honor. In Mr. Dixon's application, he cited his role to an agreement executed on March 10, 2023, titled a plan consultation party agreement, which can be found in Exhibit C of Docket 3799 and which was not a contract to retain Mr. Dixon's services, but rather simply an agreement to allow him access to the debtors' confidential and privileged information not afforded to other creditors.

The agreement did not infer that compensation or expenses could or would be covered or reimbursed. The agreement clearly states, and I quote, "Plan consultation party shall not be eligible to receive compensation or benefits for any services provided hereunder." The agreement was mostly a one-sided agreement in that it outlined parameters for which Mr. Dixon would have access to, but made absolutely no request of Mr. Dixon to provide any feedback or guidance to the debtor, the only exception being that it expressly instructed Mr. Dixon to represent

himself in any way as an officer or an employee of the debtor. There was no request made or promises to Mr. Dixon as a result of the plan consultation party agreement, the key word there being party. He was made a party to information (indiscernible) by the debtor and not a consultant to the debtor.

Judge, the word consultant does not appear even once in the executed agreement which I just mentioned. Earlier -- I'm going off script here. Earlier, Simon Dixon's lawyer referred to him as a consultant, but I want to make it clear he did not agree to become a consultant. I would challenge anybody who would argue otherwise. He was not in writing, formally a consultant in any way.

Why would the debtor and their legal counsel agree to this? One can only speculate. But if you take into account Mr. Dixon's often heated social media statements putting him directly at odds with the debtor, then it only makes sense to quell that dissent by effectively reading him into the process. Thus, he is under an NDA and would have to mitigate and temper his public statements going forward.

Mr. Dixon's application is full of references to activities and events which predate him having special access via the plan consultation party agreement. What it does contain, or, I'm sorry, what it doesn't contain is any specific breakdown of his legal expenses and why such legal

expenses were even necessary to begin with. I personally find it mind boggling to think that he paid his attorneys hundreds of thousands of dollars just so he could be given access to privileged information.

Precisely what did Mr. Dixon's attorneys do that Kirkland & Ellis and White & Case were unable to accomplish themselves? We may never know, as it turns out. There was not an itemized bill provided. There was never an official letter or billing statement from any of his multiple attorneys. Mr. Dixon may tell the court that this money is not for him, but rather for his attorneys. It seems Mr. Dixon is really here for their benefit today, representing them. Mr. Dixon's request simply lacks the critical empirical evidence that the court could use to consider his actions a substantial contribution, a contribution whereby one could present tangible and measurable evidence that their activities led to the benefit of the creditors' estate rather than to its detriment. I have seen no concrete evidence in Mr. Dixon's application to the court that his actions were anything less than self-serving and entered into at his own risk.

As you know, Your Honor, the Bankruptcy Code does not define specifically what a substantial contribution is. However, the debtors' counsel posted a publication on their own company website which can be found in Exhibit A of my

objection, Docket Number 4015, stating, and I quote, "Courts generally have required the claimant show that it took extraordinary actions that led to an actual and demonstrable benefit to the debtor's estate, or as some courts say, direct and material." This reminds me of when Supreme Court Justice Potter Stewart was asked to describe his test for obscenity in 1964. He responded by saying, I know it when I see it.

Well, Judge, I'm pretty sure I know what a substantial contribution looks like. And Mr. Dixon's activities do not come close to justifying that the creditors' estate should be made to pay him nearly $600,000 just for his well-crafted and long application amongst the other creditors that are coming to you today for a handout. Mr. Dixon asserts that his claim could have been much higher if he had chosen to request reimbursement for the countless number of hours of his social media videos he posted on YouTube, almost as if to say that we should be somehow grateful that he is cutting us a break and also his attorneys have discounted their fees as well.

However altruistic and honorable Mr. Dixon would have you believe his comments were, it is purely irrelevant and immaterial to what the law requires in order to qualify for a substantial contribution reimbursement. From where I'm sitting -- well, let me skip over that.

I would ask the court today to please deny Mr. Dixon's request, as it ultimately does not qualify under 11 USC Section 503 of the Bankruptcy Code. Please show all creditors listening today that the court will take the necessary action to maximize and preserve the debtors' estate for the benefit of all creditors, and the estate will not serve as a perpetual ATM machine to the people with the loudest voices.

Last paragraph. My heart goes out to all creditors who lost hope and sold their claim early on for a mere pittance after possibly reading many of Mr. Dixon's negatively slanted tweets about the debtors' chances of successfully emerging from bankruptcy. Unfortunately, many creditors may have been influenced into giving up their best chance of receiving a maximum recovery at the conclusion of this bankruptcy process. I think that untold numbers of creditors may -- I'm actually going to skip over that comment now. I don't think it's relevant.

Finally, Your Honor, I would like to thank the U.S. trustee today immensely for not subordinating their duties and acting in the best interest of all creditors on this matter.

THE COURT: All right. Thank you very much, Mr. Amerson. Mr. Koenig, did the debtor want to respond to any of the arguments we've heard?

MR. KOENIG: To Mr. Amerson's argument?

THE COURT: No.

MR. KOENIG: Mr. Latona just spoke before.

THE COURT: Okay. That's fine. Mr. Colodny?

MR. COLODNY: Briefly, Your Honor. Aaron Colodny, from White & Case, on behalf of the Official Committee of Unsecured Creditors. We filed an objection to Mr. Dixon's application as well. We don't object to the entire amount, but I think the law is clear that losing bidders are generally not compensable for substantial contribution. That's In re S&Y Enterprises, LLC, 480 B.R. 452 (Bankr. E.D.N.Y. 2012). And I think in Mr. Dixon's declaration, which is not admitted into evidence because we are not at an evidentiary hearing, he breaks it into two different categories. He has the services provided by Brown Rudnick & Cooley, which he says were part of the bid, and then afterwards by ECJ, which were part of his support for the plan moving forward. We support the payment of the fees by ECJ as part of his substantial contribution in generating support for the plan. However, we don't support the payment of the fees of an unsuccessful bidder.

THE COURT: All right. Thank you.

MR. COLODNY: Thank you, Your Honor.

THE COURT: All right. Does anybody else wish to be heard briefly?

CLERK: Judge, Cathy Lau is on the --

THE COURT: Go ahead, Ms. Lau.

MS. LAU: Okay. I am making an objection to Simon Dixon's substantial contribution claim.

THE COURT: Go ahead.

MS. LAU: Okay. So Simon Dixon's substantial contribution application is unreasonable, excessive, lacking merit and shamelessly insulting with him even seeking reimbursement for the fees he is paying his lawyers to defend against the objections to his application today. He has not broken down what his expenses are for and wants to wait until after the hearing to let the U.S. trustee examine his bills, which makes no sense as clearly its content should be examined before any approval is given to determine if the other fees and expenses he has tried to include reflect activities that have actually benefited creditors and the estate. It makes one wonder why they couldn't provide them sooner, especially given the unreasonableness of the future expense they did break down, and especially since the date for the substantial contribution hearing had already been extended, giving them more than enough time to gather the information.

Simon has tried to use his participation in the last hearing to justify having the entirety of his application approved, despite the fact that it was part of

the plan support agreement he signed that he would support the reorg plan and continue to push to have creditors support it in exchange for his board observer seat and support from the debtor and the UCC for part of his application.

If the plan did not pass by December 31st, he would have had to forfeit both his board position and their support. So it was probably that that was a major motivation for his participation in and wanting to help the plan pass in the hearing, and he should not be given more for his role just because he's trying to obtain more benefits for himself than were already negotiated for.

To see Simon under a plan support agreement and fighting to have every last scrap of his substantial contribution application paid to him is a complete 180 from how Simon presented himself and his perception of Chapter 11 and what he was saying he was fighting for initially when he was trying to build a follower base for himself within the Celsius case.

In June 27, 2022, before Celsius entered a bankruptcy, he tweeted, I am fighting against, if Celsius enters bankruptcy protection, client positions will be sold to U.S. dollars at the current market price and clients will be added to the list of the firm's creditors. I'll share how you can play your part soon.

So this was a big deal because he said, Simon, then he went on (indiscernible) months arguing for making Celsius creditors truly whole, but suddenly shifted his stance and settled for having predators receive their crypto only in the form of bitcoin and Ethereum, priced on dollar terms at the U.S. petition (indiscernible), directly counter to what he said he was fighting for at the start of the bankruptcy.

As a Celsius creditor described in a tweet, whole would be the value of the crypto we held in Celsius. If I have one bitcoin and it goes to 100,000, giving me back 20,000 just because it was the value at the time of the bankruptcy is not whole. Giving me one coin is whole.

So Simon had been saying that Tradefi didn't understand how crypto worked and that he was the only one who could explain to them why it was so necessary to receive our cryptos back in the form we had it because of the severe loss of value to creditors and money going to the lawyers if we settled on petition date pricing. With petition date pricing, any increase in crypto's value would be lost to the creditor and made available to the debtor and the lawyers, thereby screwing over creditors who had purchased crypto for its upside potential. And Simon had been aware of it from the beginning.

But he abandoned fighting for this and settled on

arguing for something that had the appearance of in-kind, promising to return crypto to creditors in the form of bitcoin and Ethereum that actually was not in-kind at all, forcing them to accept the dollar value of their holdings at a bear market value, and allowing the debtors to keep all the upside value for themselves, which the lawyers and other plan creators could use as a source of (indiscernible) to continue (indiscernible) the expense of creditors.

Creditors have discussed this total shift in ethos of recovery with one creditor meeting back in January 25, 2023, especially since the UCC literally just told us this was why they supported the ownership of Earn going to Celsius, because it made returning the crypto in kind easier. And I remember Celsius repeatedly saying they intended to return in-kind also. And in reply to that said, good point. They really need to explain this total shift in ethos of recovery. All we've heard from day one, primary objective of preserving and giving creditors options to access the remaining crypto while trying to maximize value of non-crypto assets through building or through bid or reorg.

So it would appear that both the debtors and the UCC had been leaning towards crypto in-kind to creditors. And when they offered Simon a plan consultant position, he should have used that time to explain the creditors'

position and why petition date pricing makes sense, and instead he focused his time on working with bidders in a stalking horse bid he proposed that he said would produce significantly better results for creditors and would be worth the increased lawyer's fees. And this was a significant shift from the attitude he expressed earlier in December 20, 2022 when he tweeted that -- sorry, I've got to find that. He said, I now believe that Chapter 11 is a U.S. scam to drain creditors of every remaining dollar and sell all their assets to pay the debtor and their service providers.

So it's interesting that after casting the Chapter 11 process in such a bad light and influencing a general consensus by creditors against any extension of the Chapter 11 process, Simon shifted tune again. And then he said that because he was given a plan consultant position and able to work with bidders and stuff, he said he started endorsing the extension of the law process, saying patience, the longer the auction, the better the terms. Expect news today, Celsius creditors, the Celsius scam should eventually become a transparent bitcoin machine for victims if I get my way and he retweeted tweets saying I know a lot of creditors shit on Celsius UCC, but it's a fact they have made a much better decision than the UCC. Would I have done things differently? Yes. Let's see where we land. And we still

have a lot of collective influence over the process because of Twitter spaces.

So as you see before, he was actually really advocating for that petition date pricing that a lot of Celsius creditors -- right now, when you check Twitter, all the Celsius creditors are miserable over not getting over -- like, over not being made whole, like the petition date pricing, they've all been complaining about because they have not been able to get the upside that they thought they would be getting.

Like if you look in a tweet -- actually, this was one of the concerns of the Earn ad hoc committee because Simon Dixon, he had put together people's claims to the Earn ad hoc committee's reservation of rights. And one of the rights that they wanted to put forth to the debtor was the lack of transparency about who is getting the benefit of the crypto appreciation from the petition date.

Simon, because he went as part of the group that advocated for this, I don't think that that was discussed. He could have used his position to argue about this, but instead he wanted to get his board observer seat. So that was never brought up. Also, one of the issues that the ad hoc committee wanted to talk about was the lack of detail about the $2 billion claim against FTX. And again, that was not discussed further. So that was actually something that

would have brought potentially lots of value to creditors if it had returned $2 billion to creditors. But again, that was something that was not talked about more because the focus was on just getting a board seat for Simon.

So if you look, somebody posted on Twitter, so are we looking at a 75 percent to 100 percent recovery of the claim amount to be returned? And everybody said that I thought we were getting 50 (indiscernible) says here it appears recovery will be closer to 25 percent of value in the Celsius app. No depositor (indiscernible) with the intent to get back a dollarized claim at fair market values. And somebody else says, your crypto will be dollarized at the time of the bankruptcy, meaning 19,800 per bitcoin, you will get 51 percent of the amount in today's bitcoin value, meaning you will get one-fourth of bitcoin or less if bitcoin, that's my understanding, maybe 30 percent in kind.

This was not what creditors were fighting for at the beginning of the bankruptcy. This was how Simon built his follower base, by telling everyone that he was going to be fighting (indiscernible) in-kind distribution because everyone actually cared the most about. People really wanted to have their crypto returned back to them in as great a value to them as possible. And Simon told us that he would be fighting for that, but then he shifted to only have it returned back to us in bitcoin and ETH, which was

definitely self-interested because (indiscernible) maxi and a bitcoin maxi wants bitcoin to succeed over any other coin.

So by making it so that all of our coins, all of our altcoins got sold for bitcoin, that was helping bitcoin because it was making all the altcoins lose through selling (indiscernible) and then making us purchase bitcoin. So he totally changed what he said he was going to do to benefit himself. And actually when he said that, when he came to talk in December, I mean, like during the December hearing to talk about the rug pull that was going to happen if we didn't approve the plan, a lot of the creditors have been arguing that the rug pull was not such a bad idea.

For example, someone asked, can someone explain why rug pull is a bad idea? I'd be thrilled to get 100 percent of my funds back, even at those prices, rather than 60 percent back of shares in a mining company. Am I missing something? And someone said, imagine if you sold at the bottom (indiscernible) back near the top. Then the culprit, Celsius, gave themselves a big bonus at your expense for managing their way out of Chapter 11. That's what's happening with the 100 percent option. And it's not 100 percent in-kind. It's 100 percent dollarized, which blows.

Simon doesn't address at all that us with mostly stable (indiscernible) of the family that had Celsius had stables for the most part. So we cheered for the rug pull.

We used bitcoin as a bank and not as speculative assets. I think we should get back 100 percent.

Someone said, mining is currently (indiscernible) having in a few months will be extremely competitive (indiscernible) there is no guarantee they will survive long term. I wish we had liquidated everything 18 months, distributed what was left and saved hundreds of millions of dollars in fees.

And someone said, we're getting close to 100 percent of USD claim, not of the actual crypto, an important distinction. I hope everyone understands. In actual crypto we'll get probably close to 30 percent to 35 percent back and (indiscernible) because a lot have stables inside. We want our crypto back, not fiat. And even though we like to see the dollar value of our portfolios going up, we like just the same seeing (indiscernible) we have going up.

Also rug pull scenario would force us to (indiscernible). It's interesting that he was willing to extend the court process for his stalking horse bid that didn't even amount to anything. And then he actually led us to the rug pull scenario by suggesting that stalking horse bid because if we had undertaken the stalking horse bid, we would (indiscernible). We could have exited Chapter 11 in two months or sooner than where we are now. And then he used that rug pull scenario to tell us that now we have to

accept this plan or else we're going to get screwed with this rug pull. And as you see, a lot of creditors actually prefer to have the rug pull just because they want -- everyone just wants their money, their crypto in-kind back and (indiscernible) --

THE COURT: Ms. Lau? Ms. Lau? Ms. Lau?

MS. LAU: Yes.

THE COURT: All right. You're straying from what the issues are before (indiscernible) --

MS. LAU: Sorry. Okay. I'm not (indiscernible).

THE COURT: Thank you.

MS. LAU: Yes, but (indiscernible) --

THE COURT: You are done. Ms. Lau, you are done.

MS. LAU: No.

THE COURT: You are done. Deanna, if she keeps speaking, cut her off.

CLERK: Okay, Judge. We also have Lawrence Porter.

THE COURT: Go ahead, Mr. Porter.

MR. PORTER: Good day. Happy New Year (indiscernible). As you've heard, this is very unique, and it continues (indiscernible) even in the responses of people (indiscernible) creditors like myself and Cathy. Originally (indiscernible) couldn't believe what (indiscernible). And when Simon Dixon came forward, we questioned his motivation

extensively (indiscernible) I gather he signed NDAs, with the UCC and White & Case being silent in comparison to Simon Dixon (indiscernible) bankruptcy international creditors that are not familiar with the bankruptcy proceeding, as well as many of the creditors in America, I'm sure. (indiscernible) for American creditors when the SEC had outstanding litigation (indiscernible) I think the genesis was when (indiscernible) and Simon Dixon's plan wasn't going to work the way he intended originally. Personally, I'm in the (indiscernible) being clawed back for more than 100,000. It's very unique. And I appreciate all your efforts. I appreciate Simon Dixon's efforts. And I just don't think that anybody can blame one person. I believe Simon Dixon's intentions were for the best outcome for all of the creditors. Thank you very much, Your Honor.

THE COURT: Thank you, Mr. Porter. Deanna, is there anybody else who wishes to speak?

CLERK: Yes, Chase Stone.

THE COURT: All right. Briefly, Mr. Stone.

MR. TARLOW: Your Honor, I'm trying to -- this is David Tarlow again. I'm still in Mr. Stone's office.

THE COURT: Oh, I'm sorry, Mr. Tarlow. Yeah, you're in Mr. Stone's office. Go ahead, Mr. Tarlow.

MR. TARLOW: Just really briefly, Your Honor, we did submit the invoices for all the legal work that was

done. I appreciate all the comments that have been made. As far as the ECJ fees, they were not even generated until we were talking about the plan support agreement, which was about August and September of 2023, when Mr. Dixon was in full support of just the creditors and was not pursuing any personal bid at all. Early on in this, obviously, there's no contention about that he was going after his own bid. But like any sort of proceeding in court, things are fluid. Things change, things pivot.

As far as Mr. Amerson, he brought up a lot of points. Just a couple things. First of all, there's no evidence of any duplicative work that was done with respect to Mr. Dixon and the debtors and the unsecured creditors. There was no evidence that Mr. Dixon was working with Mr. Mashinsky. In fact, Mr. Dixon was defrauded by Mr. Mashinsky, as everyone else was.

I think that one of the things that's reflected by the fact that Mr. Amerson and Ms. Lau and Mr. Porter jumped on is that other creditors were listening to Mr. Dixon, other creditors were following him, and ultimately, Mr. Dixon did a lot of work with respect to pushing forward the plan, which culminated in December when he was in front of Your Honor and fielded Your Honor's questions as to why the plan should not be resolicited and why it should go into effect. And that's all I have to say.

THE COURT: Thank you, Mr. Tarlow. All right. Thank you. All right. There are two other matters that remain on the calendar, Items 13 and 14. They relate to motions in connection with Mr. Bronge's appeal, motions seeking to designate additional items to be included in appellant's designation of record and striking certain items from appellant's designation of record. So one motion is 4126 and the second one is 4180. I'm taking both of those under submission without argument.

MR. LATONA: Just really quickly, Your Honor. We've reached an agreement with Mr. Bronge as of the contents of his record on appeal, and we're working to get -- we had identified some documents. He had identified some documents. We've reached an agreement with him on his documents. We're working towards an agreement on our documents. I expect we'll be able to resolve this consensually and file a stipulation. If not, we'll ask Your Honor to rule, but I don't think it'll be necessary.

THE COURT: Okay. When do you think you'll be able to resolve it?

MR. LATONA: Next week. I'll say by the end of next week. We'll either resolve it or we'll submit it.

THE COURT: All right. I'll wait that long. Otherwise, I'm going to rule on it --

MR. LATONA: Understood. I think we'll be able to

get this done.

THE COURT: -- without hearing argument. All right. We're adjourned.

MR. LATONA: Thank you.

THE COURT: Thank you very much, everybody, and you can order the transcript.

(Whereupon these proceedings were concluded at 1:28 PM)

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing transcript is a true and accurate record of the proceedings.

Sonya Ledanski Hyde

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Date: January 12, 2024